

(2025) 10 OHC CK 1367

In the Orissa High Court

Case No : Writ Petition (C) No. 17243 Of 2025

Sarat Nayak @ Sarat Chandra Nayak

APPELLANT

Vs

Commissioner Consolidation, Bhubaneswar And Others

RESPONDENT

Date of Decision : 30-10-2025

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2025) 10 OHC CK 1367

Hon'ble Judges : A.C.Behera, J

Bench : Single Bench

Advocate : Hrudananda Mohapatra, Sachidanada Nayak

Final Decision : Disposed Of

Judgement

A.C. Behera, J

1. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the petitioner praying for quashing the impugned order dated 25.08.2023 (Annexure-5) passed in Revision Case No.775 of 2009 by the Commissioner Consolidation, Bhubaneswar (O.P No.1).

2. Heard from the learned counsel for the Petitioner and learned counsel for the O.P. Nos.2 to 6 and the learned Additional Standing Counsel for the State.

3. The Petitioner was the O.P. No.1 in Revision Case No.775 of 2009 before the Commissioner Consolidation, Bhubaneswar (O.P No.1).

4. Nowhere, in the impugned order dated 25.08.2023 (Annexure-5) passed in Revision Case No.775 of 2009 by the Commissioner Consolidation, Bhubaneswar (O.P No.1), it has been indicated/reflected about any hearing from the O.P. No.1 in Revision Case No.775 of 2009.

When, the impugned order vide Annexure-5 does not reveal about providing any opportunity of hearing to the O.P. No.1 in the said Revision (Petitioner in this writ petition), then at this juncture, it is held that, the impugned order vide

Annexure-5 has been passed by the O.P. No.1 without complying the principles of natural justice.

5. The law concerning the maintainability of a writ petition under Articles 226 and 227 of the Constitution of India, 1950 despite availability of an alternative remedy has already been clarified by the Apex Court in the ratio of the following decisions:-

(i) In a case between Whirlpool Corporation vrs. Registrar of Trade Marks : reported in (1998) 8 SCC-1 that, Despite availability of an alternative remedy, a writ petition under Articles 226 and 227 of the Constitution of India, 1950 can be entertained in the following cases:-

(a) Where principles of natural justice are breached.

(b) Where fundamental rights are sought to be enforced or breach thereof is complained of

(c) Where the impugned order is passed by an authority without justification.

(d) Where the Constitutionability of any provision is called in question.

(ii) In a case between The Assistant Commissioner of State Tax and others vrs. M/s. Commercial Steel Limited : reported in (2022) 16 SCC-447 that, despite availability of an alternative remedy, a writ petition under Articles 226 and 227 of the Constitution of India, 1950 can be entertained in the following cases :-

(i) An access of jurisdiction.

(ii) A breach of fundamental rights.

(iii) A violation of the principles of natural justice.

(iv) A challenge to the vires of the statute or delegated legislation.

6. Here in this matter at hand, when the Petitioner has challenged the impugned order dated 25.08.2023 (Annexure-5) passed in Revision Case No.775 of 2009 by the Commissioner Consolidation, Bhubaneswar (O.P No.1) by filing this writ petition under Articles 226 and 227 of the Constitution of India, 1950 and when it is held above that, the impugned order vide Annexure-5 has been passed by the Commissioner Consolidation, Bhubaneswar (O.P No.1) violating the principles of natural justice i.e. without giving any opportunity of being heard to the O.P. No.1 of the said Revision Case No.775 of 2009 (Petitioner in this writ petition), then at this juncture, by applying the principles of law enunciated in the ratio of the aforesaid decisions, there is justification under law for making interference with the said impugned order dated 25.08.2023 (Annexure-5) through this writ petition filed by the Petitioner.

7. As such, there is some merit in the writ petition filed by the petitioner. The same is to be allowed in part.

8. In result, the writ petition filed by the petitioner is allowed in part.
9. The impugned order dated 25.08.2023 (Annexure-5) passed in Revision Case No.775 of 2009 by the Commissioner Consolidation, Bhubaneswar (O.P No.1) is quashed.
10. The matter, i.e., Revision Case No.775 of 2009 is remitted back to the Commissioner Consolidation, Bhubaneswar (O.P No.1) for deciding the same afresh as per law after giving opportunity of being heard to the Parties thereof including the Petitioner of this writ petition as expeditiously as possible preferably within a period of two months from the date of filing of the certified copy of this judgment by the Parties before the O.P No.1 in Revision Case No.775 of 2009 with a liberty to the Parties including Petitioner of this writ petition to agitate their all grounds/contentions in their favour including maintainability of the revision before the Revisional Authority.
11. The Parties to this writ petition are directed to appear before the O.P. No.1 on dated 10.11.2025 and to file certified copy of this judgment in Revision Case No.775 of 2009 for the purpose of receiving directions of the O.P. No.1 as to further proceedings of Revision Case No.775 of 2009 on the basis of the observations made in this judgment.
12. As such, this writ petition filed by the petitioner is disposed of finally.