

Nakula Nayak Vs. Debaraj Nayak

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Court : Orissa

Decided On : Aug-30-2007

Reported in : 2008(I)OLR261

Judge : P.K. Tripathy and; R.N. Biswal, JJ.

Appellant : Nakula Nayak

Respondent : Debaraj Nayak

Judgement :

ORDER

Opposite party has entered appearance. Therefore, this writ petition is disposed of at the stage of admission on consent of the parties.

Heard.

1. Order dated 18.08.2007 in Election Misc. Case No. 18 of 2007 of the learned Civil Judge (Junior Division), Khurda, is under challenge. The writ petitioner as opposite party in that election dispute prayed to issue summons to B.D.O. to be examined as examine witness from his side. That application was rejected on the ground that the Election Officer-cum-B.D.O. is a public servant and without calling for document, securing his attendance for deposing in the case is not proper. Such is not the position of the law under the G.P. Act, C.P.C. or Evidence Act, therefore, the said order is set aside and the Court below is directed to allow the application of the writ petitioner and to permit him to examine the said officer as witness on

behalf of opposite party. However, if the opposite party fails to secure the attendance of the witness on proper issue of notice, then that may not be a ground for deferring hearing of the case.

2. The writ petition is disposed of accordingly.

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