RES OFFICE OF COLLECTOR
29 APR 2022
KALAHANDI
BHAWANIPATNA

BOARD OF REVENUE, ODISHA, CUTTACK

XXV-07/2021 No 200 /Judl. dt. 29/04/2022

To

The All Collectors.

Sub: Correction of Record of Right by Tahasildars- Partial modification of this office letter No 174/Judl Dated 11.04.2022.

Sir,

I am directed to inform that, the powers and functions of Tahasildars have been well defined under the Odisha Survey and Settlement Act, 1958 under Section 16 read with Rule 32 of the Odisha Survey and Settlement Rules, 1962.

1. As per the Odisha Mutation Manual framed under the Odisha Survey and Settlement Act, 1958, the correction of Records of Rights can only be done by the Tahasildar (which includes Additional Tahasildar) in Record of Rights, which have already been finally published under the Odisha Survey and Settlement Act, 1958 or Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972. In this regard, some relevant rulings by the High Court are given at **Annexure** A for reference.

2. The power to make any changes in the Record of Rights prior to publication, in other words in case of " Sabik Khatas" lies with the Revisional Authority, i.e. Member, Board of Revenue under Section 15(b) of the Odisha Survey and Settlement Act, 1958 and Civil Courts. The Revisional Courts functioning under Board of Revenue exercise their powers accordingly

3. The orders passed by the revisional authorities are to be complied by the concerned Tahasildar. **Annexure-B**

4. In order to enable revisional authorities pass clear and unambiguous orders, it is necessary that Tahasildars go through the revision petitions carefully when they are forwarded at the initial stage by the revisional authorities and furnish the para-wise comments carefully. A few examples are given below.

(i) Revision petition deals with spelling of name of caste.

→ Clear reply should be given based on local field inquiry.

(ii) Hal R.O.R. has a smaller extent of area than the area as per R.S.D., where claim is made before the revisional authority on the basis of purchase.

→ Actual area measurement should be done on the ground, based on the sketch map that accompanies the R.S.D and area extraction report should be furnished clearly. if rights of boundary tenants are affected, it should be mentioned in the report clearly.

(iii) Hal R.O.R. is not disputed, but the map is alleged not to be in conformity with the R.O.R.

→ Actual ground measurement should be done. If rights of boundary tenants are affected, details thereof should be clearly mentioned in the report.

Hence , it should be brought to the notice of all the Tahasildars under your jurisdiction, that :-

(i) After receiving order from the Revisional Court, the Tahasildar should institute a notional Miscellaneous Case to ensure LRMS linkage to effect the required changes if clear orders of correction of Record of Rights are given by the Revisional Court.

(ii) The Miscellaneous Case should not lie pending for long unnecessarily. When clear cut orders are passed by the Revisional Court, the orders to be carried out immediately.

(iii) The Tahasildar need not post the case for hearing date after date, in such cases, unless it is specifically ordered by the Revisional Court to provide opportunity to all stakeholders for further field verification.

This should be circulated amongst all Tahasildars of your district for information and necessary action.

Yours faithfully,

28.4.22
Secretary
Board of Revenue, Odisha, Cuttack

Memo No. 201 dt. 29/04/2022

Copy forwarded to All Revenue Divisional Commissioners for information and necessary action.

28.4.22
Secretary

Memo No. 202 dt. 29/04/2022

Copy forwarded to the all the Presiding Officers functioning under Board of Revenue, Odisha, Cuttack for information and necessary action.

28.4.22
Secretary

Memo No. 203 dt. 29/04/2022

Copy forwarded to the Additional Secretary, Revenue and Disaster Management Department, Government of Odisha for information and necessary action.

28.4.22
Secretary

Memo No. 204 dt. 29/04/2022

Copy forwarded to P.S. to Hon'ble Member, Board of Revenue, Odisha for kind information of Hon'ble Member, Board of Revenue.

28.4.22
Secretary

Annexure-A

1. Accordingly, Odisha Mutation Manual needs to be understood that, the mutation is to be confined to matters arising after the publication of Record of Rights and not on the basis of facts which existed prior to the preparation of the Record of Rights - 1997(1) OLR-13 (II) OLR- 495.

2. The executive instruction permitting correction of ROR in terms of Rule 34 of the Oidsha Survey and Settlement Rules for cause of action which arises before preparation of ROR cannot be maintained in the mutations proceedings before the Tahasildars -1998 (II) OLR 495.

3. Cause of action, if arises before the publication of ROR the aggrieved party to approach the Board of Revenue to correct the finally published Record of Rights. -2002 (I) OLR (BOR) 82. See also 2004 (I) OLR 251

4. Record of Rights prepared by the Survey and Settlement Authority cannot be corrected by the Tahasildar, if corrected, it will have no effect- 97 (2004) CLT 400

5. After publication of the Notification under Section 6(1) of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 every proceeding related to survey, preparation and maintenance of Record of Rights and Settlement of rent shall stand abated after publication of notification under section 6(1) of Odisha Consolidation of Holding and Prevention of Fragmentation of Land Act, 1972 : JBR VOI. XV (1979) part II 40, JBR VOI. XVI (1980) Part III 47.

Annexure-B

1. If the registered sale deed is executed after the final publication of ROR, the Tahasildar has the power to mutate the land and correct the ROR.

2. If the sale transactions have happened before the date of Publication of ROR of that village, the Tahasildar does not have the right to mutate the land or correct the ROR. In such cases, specific the orders of Revisional Authority or Civil Court is essential.

3. In case of orders passed by the Revisional Authority to the Tahasildars to conduct further field verification under intimation to all stakeholders, the Tahasildar needs to start a Miscellaneous Case and give further dates for parties to appear, to facilitate field verification after due service of notice. However, sometimes the Revisional Courts are constrained to pass such orders as the Tahasildars fail to give a clear field report to the concerned Revisional Court in due time. This can be easily avoided, if the concerned Tahasildar gives timely reports to the Revisional Authorities enabling them to pass a clear order for compliance rather than remanding the case to the lower court.

4. Wherever clear order is received from the Civil Court or the Revisional Authority, opening of a Miscellaneous Case should be a formality, to enable linkage with online LRMS. It should not be a means to keep further execution proceedings to linger on, date after date.