COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal Nos. 01, 02 and 03 of 2017

(Against the orders of the Tahasildar, Athamallik dated 12.08.2016)

Jyotsnamayee Sahoo … Appellant

versus

Tahasildar, Athamallik … Respondent

Decided on 18 September 2025

Odisha Land Reforms Act, 1960 – Section 22(1) and 22(5) – Transfer by a Scheduled Caste raiyat to a non-SC person without permission – Mutation. Section 22 applies *mutatis mutandis* to transfers by Scheduled Caste raiyats. The vendor's community (Siyal, Khajuria) stood included in the SC list for Odisha before the sale of 24.12.2002, so the sale to a non-SC purchaser required prior written permission of the Revenue Officer. Without it the transfer is void, and mutation cannot be allowed on a void transfer.

Three appeals by the same appellant on identical facts were decided by identical orders; the order in Mutation Appeal No. 03 of 2017 is reproduced.

Result: Appeals dismissed. Orders of the Tahasildar rejecting mutation upheld.

ORDER

18.09.2025

1. The case was taken up today. Perused the parawise comments submitted by the Tahasildar Athmalllik. Which read as follows,

> *"The averment made in this paragraph is admitted. It is a fact that the mutation case no. 339/2016 has been initiated for the settlement of land under holding no. 70/3, plot no. 201 measuring an area of 0.29 acres of village Khagadabahali in favour of Jyotsnamayee Sahoo, wife of Niarakar Sahoo of village Jarapada.*

2. It is revealed from the certified copy of MC No. 339/2016 submitted by the applicant that the RI Sanhula has inquired and reported that the purchaser is Smt. Jyotsnamayee Sahoo belongs to the Chasa caste, which does not fall under the ST & SC category. In contrast, the seller is a Schedule Tribe, which attracts permissions under Section 22 of the OLR Act. The applicant has not obtained permission from the competent authority. The order passed by the Tahasildar is justified and genuine in the eyes of the law, and request to dispose of the Mutation appeal case accordingly".

3. On the other hand, the appellant has stated that during the time of sale and purchase of the case land, the "Khajuria" tribe was not included in the ST list of Odisha.

4. Perused the order dated 12.08.2016 of the Tahasildar Athmallik. It reveals that the case land was transacted on 24.12.2002, vide RSD No. 941/2002, from the vendor, Dhaneswar Behera, Gunjan Behera, son of Kulamani Behera, caste: Khajuria.

5. The Khajuriya caste, also known as Siyal (derived from "siyalo," meaning jackal in local dialects, reflecting their totemic origins), was included in the Scheduled Castes (SC) list for Odisha through the Constitution (Scheduled Castes) Order (Amendment) Act, 2000. This amendment modified the

original Constitution (Scheduled Castes) Order, 1950, by adding "Siyal, Khajuria" as entry 86 in Part XIII of the Schedule, which pertains to Odisha. The Act received presidential assent on August 25, 2000, and came into force on November 15, 2000, as notified by the Ministry of Law and Justice.

6. Hence, it is evident that the vendor belongs to an SC category and the vendee belongs to a non-SC category. The caste of the vendor was included in the SC list of Odisha in 2000, whereas the sale transaction took place in 2002, which required prior permission from the Revenue Officer under Section 22 of the OLR Act, 1960.

7. Put up for order.

8. Brief Facts of the Case: The appellant claims to have purchased the case land from the vendor, Dhaneswar Behera, Guanjan Behera (son of Kulamani Behera Behera), vide Registered Sale Deed No. 941/2002 dated 24.12.2002. The vendor belongs to the Khajuriya (also known as Siyal) community. The appellant, belonging to the Chasa caste (a non-Scheduled Caste/Scheduled Tribe category), applied for mutation of the land in her name. The Tahasildar, after inquiry, rejected the mutation on the ground that the transfer violated Section 22 of the Odisha Land Reforms Act, 1960 (hereinafter referred to as "OLR Act"), as no prior written permission from the competent Revenue Officer was obtained for the transfer from a member of a Scheduled community to a non-Scheduled person.

9. Appellant's Contentions: The appellant contends that at the time of the sale transaction in 2002, the "Khajuriya" tribe was not included in the Scheduled Tribes (ST) list of Odisha, and thus no permission under Section 22 of the OLR Act was required. The appellant prays for the appeal to be allowed, the Tahasildar's order to be set aside, and for the mutation of the land in her favour.

10. Respondent's Contentions: The Tahasildar, Athmallik, submitted paragraph-wise comments stating that the purchaser (appellant) belongs to the Chasa caste, which does not fall under the ST or SC category, while the seller (vendor) belongs to a Scheduled community. The Revenue Inspector's report confirmed that the transfer is subject to the provisions of Section 22 of the OLR Act, and no permission was obtained from the competent authority. The Tahasildar justified the rejection of the mutation and requested dismissal of the appeal.

11. Issues for Determination: (i) Whether the vendor belongs to a Scheduled Caste (SC) or Scheduled Tribe (ST) community, and if so, since when? (ii) Whether prior permission under Section 22 of the OLR Act was required for the transfer dated 24.12.2002? (iii) Whether the Tahasildar's order rejecting the mutation is justified?

12. Findings and Reasoning: (i) On perusal of records and relevant notifications, it is established that the Khajuriya caste, also known as Siyal, was included in the Scheduled Castes (SC) list for Odisha vide the Constitution (Scheduled Castes) Order (Amendment) Act, 2000. This amendment added "Siyal, Khajuria" as Entry No. 86 in Part XIII of the Schedule pertaining to Odisha. The Act received Presidential assent on 25.08.2000 and came into force on 15.11.2000. The vendor, Kandhuni Behera, belongs to this community, which is classified as SC, not ST as initially referenced in the Tahasildar's comments. The appellant's reference to "Khajuriya tribe" and its non-inclusion in the ST list is noted, but irrelevant, as the community falls under SC.

13. (ii) Section 22 of the OLR Act, 1960, imposes restrictions on the alienation of land by members of the Scheduled Tribes. However, sub-section (5) thereof explicitly extends these provisions, mutatis mutandis, to transfers by members of the Scheduled Castes. The relevant portion of Section 22 reads as follows: "(1) Any transfer of a holding or part thereof by a raiyat, belonging to a Scheduled Tribe shall be void except where it is in favour of – (a) a person belonging to a Scheduled Tribe; or (b) a person not belonging to a Scheduled Tribe when such transfer is made with the previous permission in writing of the Revenue Officer: Provided that in case of a transfer by sale, the Revenue Officer shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe willing to pay the market price for the land is not available..." "(5) The provisions contained in sub-sections (1) to (4) shall apply, mutatis mutandis, to the transfer of a holding or part thereof of a raiyat belonging to the Scheduled Caste."

14. The vendor's community was included in the SC list in 2000, before the sale transaction in 2002. The appellant, being from a non-SC/ST category, required prior written permission from the Revenue Officer for the transfer. No such consent was obtained or produced on record. Consequently, the transfer is void ab initio under Section 22(1) of the OLR Act, and the effects thereof are governed by Section 23, which empowers the declaration of invalidity and restoration of possession to the transferor or heirs.

15. (iii) The Tahasildar's order dated 12.08.2016, rejecting the mutation, is justified and in accordance with law, as mutation cannot be affected based on a void transfer. The appellant's plea regarding non-inclusion in the ST list does not absolve the requirement of permission, given the SC classification and the applicability of Section 22(5).

Order

16. In view of the above findings, the appeal is dismissed. The order of the Tahasildar, Athmallik, dated 12.08.2016, in Mutation Case No. 339/2002 is upheld. No costs.

17. Let a copy of this order be communicated to the parties and the Tahasildar, Athmallik, for necessary action. The case records be consigned to the record room.

Sd/-

Sub-Collector, Athmallik

Odisha Revenue Laws · Revenue Court Orders. Reported for the reference of revenue officers. The order applies to its own facts; check the current law before relying on it.