COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 01 of 2016

(Against the order of the Tahasildar, Kishorenagar in Mutation Case No. 558/2002)

Banamali Bagha and others … Appellants

versus

Pravaseni Bagha and Tahasildar, Kishorenagar … Respondents

Decided on 1 August 2025

Orissa Mutation Manual, 1962 – Individual notice – Unregistered adoption / gift deed (chuktinama) – Alteration of settlement RoR. The settlement RoR (1976) recorded the land in the name of the recorded tenant with possession noted in favour of four brothers. Mutation in favour of only one brother on an unregistered adoption / gift deed produced some 25 years later, without notice to the other recorded possessors, violates procedural fairness and cannot alter the settlement record.

Result: Appeal allowed. Order set aside and case remanded for fresh inquiry with notice to all recorded tenants.

ORDER

FACTUAL MATRIX OF THE CASE

1. One 1. Banamali Bagha 2. Arabinda Bagha, resident of Barapadar PO- Raniakata, Kishorenagar, at present residing at Khanadahata Athamallik 3. Sukanti Bagha, resident of Barapadar PO- Raniakata, Kishorenagar, at present residing at village Jadupur Athamallik, submitted an appeal memo on 18.12.2015 challenging the impugned order passed by Tahasildar Kishorenagar in Mutation case no 558/2002. The defendant filed this mutation case on 12.6.2002 to issue ROR in his favour on the strength of an unregistered adoption deed, which was executed by the respondent in his favour.

Statement of the Tahasildar

2. Perused the paragraph-wise comments provided by the Tahasildar Kishorenagar on 23.04.2016. The mutation case number 558/2002 was initiated on the application dated 15.01.2002 of Hrudananda Bagha S/O- Bisharaba Bagha of Mouza Barapadar based on the unregistered gift deed(chuktinama) executed by Hari Bagha S/O- Samabru Bagha, caste- Dumal of Mouza Barapadar in the presence of some local gentries. ROR of the village was finally published on 01.04.1976, and the above landed property was recorded by the settlement authorities in favour of Hari Bagha S/o – Samabaru Bagha, caste- Dumal of Nijagaon Niransha Pakhye Dakhal Hrudanand Bagha, Banamali Bagha, Balaram Bhagha, Arabinda Bagha S/O- Bihrabs Bigha, caste- Dumal of Nijagaon. The mutation case was disposed of by observing all the formalities prescribed in the mutation manual.

FINDINGS

3. I do not find any infirmity in this case.

Post the case to 23.7.2025

23.07.2025

4. The case was taken up today for hearing. Mr. Bidyut Panigrahi, Petitioner's advocate, present on call. LCR of Tahasildar, Kishorenagar received.

5. Perused the notices available in the case records. The signatures of Balaram Bagha, Arabinda Bagha, and Banamali Bagha are not available. Hence, notices have not been duly served.

6. The khata was recorded in the name of ହରି ବାଘ, ପିତା-ସମ୍ବ ାରୁ ବାଘ, ଜାତି-ଡୁମାଳ , ବା -ନିଜଗାଁ ନିରଶ ପକ୍ଷ୫ ଜବର ଦଖଲ ହୃଦାନନ୍ଦ ବାଘ, ବନମାଳୀ ବାଘ, ବଳରାମ ବାଘ, ଅରବିନ୍ଦ ବାଘ, ପିତା- ବିସର୍ବ ବାଘ, ଜାତି-ଡୁମାଳ , ବା - ନିଜଗାଁ । The mutation has been allowed by the Tahasildar citing the present R.T Hrudananda Bagha as a adopted son of ex. R.T. Hari Bagha. The ROR of the Mouza was published in 1977. The present petitioner's name was also in Column 2 in the 1977 published RoR. However, it was changed by the Tahasildar. Intimate Tahasildar, Kishorenagar and Hari Bagha.

7. Case posted to 01.08.2025 for order.

8. The case was taken up today for order. The Tahasildar, Kishorenagar, was earlier submitted LCR bearing No. 558/2002 along with PWC vide his letter No.- 1200/Dt. 23.04.2025. As the para-wise report was ambiguous, Tahasildar, Kishorenagar, was requested again to submit a fresh PWC. In response to which, Tahasildar, Kishortenagar has submitted a fresh PWC vide his letter No. 3425/Dt. 22.07.2025.

9. STATEMENT OF APPELLANT: That the appellants and the husband of the respondent. No. 02 are the sons of late Bisarba Bagha. The appellants and the husband of respondent No. 02 were amicably possessing the lands in respect of Khata No. 90 of Mouza- Barapadar and who had been the recorded tenants after publication of Hal R.O.R in 1976 settlement till the year 2002. Later on, there was a family dispute occurred, and all brothers were separated from each other by amicable partition and cultivated accordingly. When the question of acquisition arose and notices were served on them by the Land Acquisition Authorities vide L. A No. 1/196, P.R. No. 150, Dt. 22.04.2000 to the village Barapadar to all recorded tenants, the husband of Respondent No. 02 made a plan to receive all compensation in his favour in respect of said case land by concealing the facts and received all L. A notice for said land acquisition. Taking advantage of the absence of the appellants, the husband of respondent No.02, i.e., Lt. Hrudananda Bagha, applied mutation case before the Tahasildar, Athamallik vide No. 558/2002 to delete the name of other recorded tenants from the said ROR published in 1976 settlement without notifying to other recorded tenants. Hence, the appellants have prayed to set aside the impugned order passed by Tahasildar, Athamallik.

STATEMENT OF TAHASILDAR

10. The Mutation Case No. 558/2002 was initiated on 15.01.2002 by an unregistered Gift. Deed as executed by Hari Bagha, S/o-Sambaru Bagha, in favour of Hrudananda Bagha, S/o-Bisarba Bagha, village-Barapadar, in respect of Khata No. 19 of Mouza-Barapadar. The case land bearing Holding No. 19 of village Barapadar was recorded in the name of ହରି ବାଘ, ପିତା-ସମ୍ବ ାରୁ ବାଘ, ଜାତି-ଡୁମାଳ , ବା -ନିଜଗାଁ ନିରଶ ପକ୍ଷ୫ ଜବର ଦଖଲ ହୃଦାନନ୍ଦ ବାଘ, ବନମାଳୀ ବାଘ, ବଳରାମ ବାଘ, ଅରବିନ୍ଦ ବାଘ, ପିତା- ବିସର୍ବ ବାଘ, ଜାତି-ଡୁମାଳ , ବା - ନିଜଗା by Settlement Authority. But Hrudananda Bagha applied in such manner, i.e, Hari Bagha, S/o-Sambaru Bagha of village Barapadar, Niansa dakhal Hrudananda Bagha before Tahasildar, and the mutation case was disposed of and ROR was corrected exclusively in favour of Hrudananda Bagha.

11. Pravaseni Bagha W/O- Hrudanand Bagh remained absent on call even though notice was sufficiently served upon her.

THE FOLLOWING POINTS NEED TO BE ANALYSED

12. Whether the unregistered adoption deed of Sri Hari Bagha was to be legally considered.

13. Whether the adoption deed which produced before the Tahasildar after 25 years, attracts the Limitation Act.

FINDINGS

14. Upon hearing the appeal filed on 18.12.2015, challenging the order of the Tahasildar, Kishorenagar, in Mutation Case No. 558/2002, and after perusing the case records, the Tahasildar's reports dated 23.04.2016 and 22.07.2025, and considering the following:

15. The Record of Rights (ROR) of Mouza Barapadar, published on 01.04.1976, recorded the land under Khata No. 90 in the name of Hari Bagha, son of Sambaru Bagha, with possession noted in favor of Hrudananda Bagha, Banamali Bagha, Balaram Bagha, and Arabinda Bagha, sons of Bisarba Bagha.

16. The mutation order dated 12.06.2002, based on an unregistered adoption deed, corrected the ROR exclusively in favor of Hrudananda Bagha, without duly serving notices to the other recorded tenants, violating procedural fairness.

17. The unregistered adoption deed, presented after 25 years, lacks legal validity and is questionable under the Limitation Act, with no justification for the delay.

18. The Tahasildar lacked competence to alter the pre-settlement ROR based on an unsubstantiated document, ignoring the rights of other recorded tenants.

19. It is hereby ordered that the Mutation Appeal No. 01/2016 is upheld. The order passed by the Tahasildar, Kishorenagar, in Mutation Case No. 558/2002 is set aside. The Tahasildar, Kishorenagar, is directed to:

20. a) Reopen Mutation Case No. 558/2002.

21. b) Conduct a fresh inquiry, ensuring all recorded tenants or their legal representatives are duly notified and allowed to be heard.

22. c) Dispose of the case by the Mutation Manual and applicable laws, after verifying the authenticity of any documents relied upon.

23. This order is pronounced in open court on this 1st day of August, 2025.

24. The case is disposed of accordingly.

Sd/-

Sub-Collector, Athamallik

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