COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 02 of 2015

(Against the order of the Tahasildar, Athamallik in Mutation Case No. 367/2015)

Dukhi Sahu … Appellant

versus

Bilasini Sai and others … Respondents

Decided on 6 May 2025

Orissa Mutation Manual, 1962 – Paras 25–63 – Requirements for allowing mutation. Mutation proceedings are summary and decide only prima facie title and possession. A mutation based on a registered sale deed, after general and individual notice, field inquiry, payment of fees and an unopposed objection period, and where both vendor and vendee are Scheduled Tribe, is valid. An unproved claim of having paid consideration for an earlier sale, with no document, does not displace it. The order sets out a checklist of the Manual's requirements.

Result: Appeal dismissed. Order of the Tahasildar upheld.

ORDER

1. 06.05.2025 The case was taken up later on today for order. One Dukhi Sahu S/O- late Babaji Sahu, resident of Thakurgarh, PS Thakurgarh, Dist. Angul submitted an appeal memo on 26.11.2015 challenging the impugned order passed by Tahasildar Athamallik in Mutation case no 367/2015. The recorded tenant of holding number 89 was Purnachandra Nayak. He sold the case land vide RSD No 807/1980 to Narendra Nayak. It is said that Narendra Nayak sold the case on 12.03.2013 vide RSD 100213009196 to one Bilasini Sai W/O- Abhiram Sai, resident of Kaintaragarh, Athamallik. The appellant objected during the mutation process, citing that she had owned the case land since 1980, as her husband had paid the consideration value to Purnachandra Nayak, and thereafter it was transferred to Narendra Nayak. However, Narendra Nayak, without her consent, sold the land.

Statement of the Tahasildar

2. The Tahasildar Athamallik, in his para-wise comment dated 13.1.2016, has stated that the area is 0.09 acres with Kissam Gharabari about plot number 157 under Khata number 89 of Mouza Thakurgarh was recorded in the name of Sri Purna Chandra Nayak S/O- Dasha Nayak, caste- Gond. Regarding payment of sale consideration money by the appellant to Shri Purna Nayak, the recorded tenant for execution of RSD No 807/1980 in favour of Shri Narendra Nayak, there is no documentary evidence. But the suit land was taken to Khata number 189/478 vide order dated 07.02.2012 of Tahasildar Athamallik passed in mutation case number 1073/2011 in favour of Shri Narendra Kumar Nayak S/O- Bichitra Nayaka, caste- Gond.

3. It is also a fact that Smt Bilasini Sai had applied for mutation of the suit land after purchase of the same from the recorded tenant Shri Narendra Nayak S/O- Bichitra Nayak vide RSD No 1021300196 dated 12.03.2013, which was numbered as mutation case number 367/2015. The Mutation case was instituted on 12.05.2015 and sent to the revenue inspector, Thakurgarh, for disposal, who notified all concerned. The general notice was served in the locality on 08.06.2015, and no objection from any quarter was received during the stipulated period. RI Thakurgarh enquired about the suit land on

16.06.2015 and reported that Smt Bilasini Sai had the suit land by the above-mentioned sale deed. The case was allowed as no objection was received during the objection period. The RI allowed the mutation in the case. It was confirmed thereafter on the same day. The ROR was corrected in favour of the respondent on 29.09.2015. No objection from the appellant or the general public has been received during the objection or appeal period. The case has been judiciously disposed of, adhering to the principles laid down in the manual of mutation, and the petition deserves no merit for consideration and is liable to be rejected.

Statement of the respondent 1. Bilasini Sai

4. She said she had no idea about the previous transaction between RT Purna Nayak and vendor Narendra Nayak. Also, she was not aware of the facts of the pending permission case before the Sub-collector. The land was lying vacant. So, she purchased the same.

Statement of the respondent 1. Bajayanti Naik D/O- Narendra Naik

5. She said she is unaware of the land transaction between Narendra Anik and Bilasini Sai. She noted that the appellant has the case land by constructing a kutcha house.

FINDINGS

Procedural Requirements for Allowing Mutation

6. Prima Facie Evidence: Mutation proceedings are summary in nature and do not decide complex questions of title (Paragraph 46). The Tahasildar relies on prima facie evidence of title and possession, supported by documents, court orders, or possession details (Paragraph 47).

7. Registered Instruments: Transfers requiring registration (e.g., sales, gifts) must be supported by registered documents to grant full recognition in the Record-of-Rights. Without registration, possession may be noted in the remarks column with transaction details (Paragraph 47).

8. Compliance with Legal Provisions: Transfers involving Scheduled Tribes or rent-free tenancies require prior permission from competent authorities (e.g., under the Orissa Land Reforms Act, 1960 or Orissa Scheduled Areas Transfer of Immovable Property Regulation, 1956). The remarks column records Possession as illegal without such permission (Paragraph 47).

9. No Subdivision Without Consent: Subdivision of a holding is allowed only with the agreement of all interested parties, and the rent division must be equitable (Paragraphs 49, 50, 51).

10. Field Inquiry or Measurement: If necessary, the Tahasildar may order a field inquiry or measurement to verify claims, with fees paid by the applicant or beneficiary (Paragraphs 57, 60).

11. Notice and Objection Period: A general notice (Form No. 9) and, where applicable, individual notices (Form No. 10) must be served, inviting objections within 15 days (not 30 days, as clarified in Paragraph 43 Note). Unopposed cases can proceed to final orders if notices are adequately served (Paragraphs 35–39, 63).

12. Payment of Fees: Mutation fees, measurement fees, or process fees, where applicable, must be paid before the final order is implemented (Paragraphs 25, 32, 48).

13. In this case, it is established that there is Prima Facie Evidence of possession. The mutation has been allowed based on a Registered Instrument. Compliance with Legal Provisions: Transfers involving Scheduled Tribes as both the vendee and vendor belong to the Scheduled Tribe. Sub-division of the holding has been done after the consent of all interested parties. There has been a Field Inquiry or Measurement, a Payment of Fees Notice and an Objection Period. The Tahasildar has maintained all formalities under the Orissa Mutation Manual 1962. Hence, the Tahsildar's order is upheld, and the appeal is dismissed accordingly.

Pronounced in open court on this 06.05.2025

14. Inform all parties.

Sd/-

Sub-Collector, Athamallik

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