**COURT OF THE SUB-COLLECTOR, ATHAMALLIK**

**Mutation Appeal No. 04 of 2025**

(Against the order dated 21.02.2023 of the Additional Tahasildar, Athamallik in Mutation Case No. 1219/2022)

*Aruna Mahakud and three others … Appellants v. Basanta Pradhan and Tahasildar, Athamallik … Respondents*

Decided on 10 December 2025 (pronounced 12 December 2025)

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**Mutation – Registered sale deed – No individual notice to legal heirs of co-tenant – Possession found with objectors – Complex title dispute.** Where the lower court's own para-wise comments admit that individual notice was not served on the legal heirs of a recorded co-tenant, and the R.I. report finds them in possession, a mutation allowed solely on a registered sale deed cannot stand. Paragraph 47 of the Mutation Manual requires prima facie title coupled with possession. If, after a fresh inquiry, the dispute over the vendor's title is found bona fide and complex, the Tahasildar must drop the case and leave the parties to the civil court (*Hardhik Routray v. State of Odisha*, W.P.(C) No. 24613 of 2025, decided 26.09.2025).

**Result:** Appeal allowed. Mutation order set aside; remanded for de novo inquiry within three months.

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## ORDER

### 1. THE FACTUAL MATRIX

1. The present appeal is directed against the final order dated 21.02.2023 passed by the learned Additional Tahasildar, Athamallik, in Mutation Case No. 1219/2022.

2. The Original Applicant (Respondent No. 1 herein), Basanta Pradhan, had sought mutation of a land area of Ac. 2.69 decimals corresponding to Khata No. 30, Mouza- Sargiseni, based on Registered Sale Deed No. 591/1989. The said Sale Deed was allegedly executed by one Saibani Naik in favour of Respondent No. 1.

3. The subject land was originally recorded in the names of two co-tenants: Bhanu Mahakhud (W/o Nabaghan) and Padma Mahakhud (S/o Cheru). The Appellants herein are the admitted legal heirs of the deceased co-tenant, Padma Mahakhud.

### 2. SUBMISSIONS OF THE APPELLANTS (Contestants)

4. Learned counsel for the Appellants vehemently challenged the impugned order on the following grounds:

5. Violation of Natural Justice: The Appellants, being the legal heirs of the recorded co-tenant (Padma Mahakhud), were served with individual notice of the mutation proceeding as mandated by law. The order was passed ex parte without hearing their objections.

6. Dispute of Title and Possession: That the Appellants are in actual, continuous physical possession of the disputed land, which is confirmed by the subsequent Enquiry Report of the Revenue Inspector (R.I.) dated 08.12.2022.

7. Fraud on Record: That the vendor, Saibani Naik, who executed the Sale Deed in 1989, was a stranger and had no right, title, or interest in the suit property. They dispute the genealogy that Saibani Naik was the daughter of the other recorded co-tenant, Bhanu Mahakhud. They argued that a mutation based on a disputed instrument, without establishing the vendor's right, is illegal.

**3. SUBMISSIONS OF THE RESPONDENT NO. 1 (Applicant)**

**Learned counsel for the Applicant/Respondent No. 1 contended that**

8. The Sale Deed (No. 591/1989) is a registered document and carries a presumption of correctness under the Registration Act.

9. Since the said Sale Deed has not been challenged or set aside by a competent Civil Court, the Revenue Authority was bound to act upon it to reflect the change of ownership in the Record of Rights (ROR).

10. The mutation proceeding was a summary enquiry, and the Tahasildar’s order was just and proper.

**4. SUBMISSIONS OF THE TAHASILDAR (PWC and LCR Analysis)**

11. The learned Tahasildar, Athamallik, submitted the Parawise Comments (PWC) along with the Lower Court Record (LCR). The following key facts were admitted by the Lower Court itself:

12. The PWC confirms that on perusal of the LCR, "it is found that no individual notice has been properly served to the legal heirs of the Recorded Tenant (the Appellants)."

13. The R.I. Field Enquiry Report, though recommending the mutation, simultaneously stated that "the legal heirs of Padma Mahakhud (Appellants) are in possession of the suit land."

**5. ISSUES FOR DETERMINATION**

14. Based on the submissions, this Court frames the following issues for determination:

15. Whether the impugned order of mutation is liable to be set aside for violation of the principles of Natural Justice due to non-hearing of the objection submitted by the legal heirs of the recorded tenant?

16. Whether the Revenue Court committed an error of law by ignoring the finding of actual physical possession in favour of the Appellants, contrary to the spirit of the Odisha Mutation Manual?

17. Whether the case involves a complex dispute of title that falls outside the jurisdiction of the Revenue Court?

**6. ANALYSIS AND FINDINGS**

**Issue No. 1: Violation of Natural Justice**

18. The provisions of Rule 34 of the Odisha Survey & Settlement Rules, 1962 (read with the detailed instructions in the Odisha Mutation Manual) make the issuance of notice to all interested persons mandatory. The object is to give every person who may be affected by the proposed change in the ROR an opportunity to raise an objection.

19. The Lower Court's own PWC categorically admits that no individual notice was properly served to the Appellants. A mutation proceeding is a quasi-judicial process. Non-service of notice to a

person whose interest is directly affected constitutes a patent violation of the principle of Audi Alteram Partem (hear the other side) and principles of natural justice.

20. In view of this fatal defect, the final order passed by the Additional Tahasildar dated 21.02.2023 cannot be allowed to stand.

**Issue No. 2: Consideration of Possession**

21. Paragraph 47 of the Odisha Mutation Manual explicitly states that "Mutation is to be allowed based on prima facie valid title coupled with possession."

22. In this case, the R.I. enquiry report, which forms the basis of the Tahasildar's decision, records that possession lies with the Appellants. While a registered sale deed suggests a prima facie title, the Revenue Court must also verify possession, which is one of the most important ingredients for mutation. The Lower Court committed a grave error by allowing the mutation solely based on a registered deed while simultaneously ignoring the finding of possession in favour of the contestants.

**Issue No. 3: Jurisdiction and Title Dispute**

23. The Revenue Court's jurisdiction in mutation matters is limited to a summary enquiry for fiscal purposes, namely, the collection of land revenue. It is a settled position of law, as held by the Hon'ble High Court of Orissa (e.g., HARDHIK ROUTRAY v. STATE OF ODISHA), that Revenue Authorities have no jurisdiction to decide complex, contentious issues of title.

24. Here, the Appellants are the admitted legal heirs of one co-tenant and dispute the very existence/relation of the vendor (Saibani Naik) to the other co-tenant, Bhanu Mahakhud. This involves a complex question of succession and transfer of interest, which can only be adjudicated by a competent Civil Court. When a bona fide and complex dispute regarding title arises, the Revenue Authority is required to drop the mutation proceeding and direct the parties to get their rights crystallised before the Civil Court.

25. However, since the original order suffered from a procedural infirmity of non-service of notice, the appropriate course of action is to remand the matter for a de novo enquiry, where all aspects of notice, possession, and prima facie title can be examined afresh in the presence of all parties. If, after proper hearing, the Tahasildar finds the dispute over possession and title to be bona fide and intricate, he must drop the proceeding.

**7. CONCLUSION AND DECISION**

26. For the reasons stated above, particularly the flagrant violation of the principles of natural justice and the failure to reconcile the conflicting findings on possession as required under the Odisha Mutation Manual, the impugned order cannot be sustained.

27. The Mutation Appeal Case No. 04/2025 is hereby ALLOWED. The final order dated 21.02.2023 passed by the Additional Tahasildar, Athamallik, in Mutation Case No. 1219/2022 is SET ASIDE. The matter is REMANDED to the Court of the Tahasildar, Athamallik, for a DE NOVO (Fresh) ENQUIRY.

**The Tahasildar, Athamallik, is directed to**

28. Restore Mutation Case No. 1219/2022 to the file.

29. Issue fresh individual notices to all the Appellants and the Respondent No. 1 in strict adherence to the Odisha Mutation Manual.

30. Conduct a fresh, thorough field enquiry to ascertain the actual physical possession of the land.

31. Dispose of the case on its merits within a period of three months from the date of receipt of this order, after providing a full opportunity of hearing to all parties.

32. If, after the de-novo enquiry, the title dispute is found to be complex and bona fide, the Tahasildar shall pass an appropriate order dropping the case and advise the parties to seek a remedy before the competent Civil Court.

33. The Lower Court Record (LCR) be returned forthwith.

Sd/-
**Sub-Collector, Athamallik**

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*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.*