COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 06 of 2017

(Against the order of the Tahasildar, Athamallik in Mutation Case No. 496/2014)

Mahadeb Bagh … Appellant v. Tahasildar, Athamallik … Respondent

Decided on 6 May 2025

Mutation – Correction of name in new khatian – Grounds of appeal. The appellant sought correction of the name in a khatian prepared in a mutation case, claiming it was a partition. The record showed the case was started on Form-3 from the Sub-Registrar for a registered sale by the appellant himself, supported by his own affidavit, and the khatian was correctly opened in the vendee's name. With no error of fact or law and no defect in notices, evidence or procedure, the appeal fails. The order lists the grounds on which a mutation appeal can lie.

Result: Appeal dismissed.

ORDER

1. 06.05.2025. The case was taken up later on for order. One Mahadeb Bagh S/O- late Dhoba Bagh, resident of Kaintaragarh, Athamallik, has filed this mutation appeal. Originally, the Khata number 834/7 of mouza Kaintaragarh was jointly recorded in the name of Hata Kaudi S/O- Makunda Kaudi and Mahadeb Bagh S/O- Dhoba Bagh. During partition amongst the joint recorded tenants vide mutation case number 496/14, a separate Khata has been prepared vide Khata number 834/143 of mouza Kaintaragrh, but in place of the name of the recorded tenant, it has been wrongly mentioned as Maheswar Bagha in place of Mahadeb Bagha. There is no bar to make corrections in the name portion of the recorded tenant from Khatiyan number 834/143 of mouza Kaintaragarh. He further prayed to set aside the impugned order as appealed against and pleased to direct Tahasildar Athmallik to make necessary corrections of ROR number 834/143 of Mouza for the sake of justice.

Statement of the Tahasildar

2. The Tahasildar Athamallik, in his para-wise comment dated 05.11.2020, said that the record of rights of khata number 834/7 of Mouza Kaintaragarh stands recorded in the name of Hata Kaudi S/O- Makunda Kaudi, Mahadeba Bagha S/O- Dhoba Bagha, caste – Gauda of village Kaintaragarh. But as regards partition amongst their joint recorded tenants vide mutation case number 496/2014, it is admitted that mutation case number 496/2014 was initiated on receipt of notice inform 3 from the sub registrar Athamallik for mutation of area 0.04 acres in Gharbari kissam about plot number 2700 under khata number 84/7 of mouza Kaintaragarh transferred by the vendor Mahadeb Bagh S/O- Dhoba Bagh @ Dhobei Bagha caste- Gauda of Kaintaragarh in favour of the vendee Maheshwar

3. Bagha S/O- Mahadeb Bagh caste Gauda of Kaintaragarh vide RSD No 10021400131 dated 19.02.2014. the present appellant had also submitted an affidavit sworn before the notary public Athmallik to the effect that he has transferred Ac 0.04 acre of plot number 2700 under Khata number 834/7 of mouza Kaintaragrh vide RSD No 100214131 for a consideration money of Rs. 60000/. The above-mentioned mutation case was allowed in favour of the vendee, Mahaswar Bagha, after observing all formalities and ROR with Khata number 834/143 issued in favour of the vendee.

GROUNDS FOR APPEAL

4. The grounds for filing a mutation appeal, as outlined in the Orissa Mutation Manual, 1962 (specifically under Chapter IV: Appeals, Revisions and Reviews, Paragraphs 92–114), are derived from Rule 42 of the Orissa Survey and Settlement Rules, 1962. An appeal can be filed against a final order passed by the Tahasildar in a mutation case. The manual does not exhaustively list specific grounds but implies that appeals are generally based on grievances related to errors, procedural irregularities, or improper application of law in the Tahasildar's decision. Below are the key grounds inferred from the manual and relevant legal principles:

Grounds for Filing a Mutation Appeal

5. Error in Fact or Law: An appeal can be filed if the Tahasildar's final order contains factual errors (e.g., incorrect recording of possession, ownership, or land details) or misapplication of legal provisions (e.g., failure to recognize a valid registered sale deed or adverse possession under Paragraphs 47, 54).

6. In this case, the Tahasildar has maintained all formalities under the Mutation Manual 1962. Hence, I don't find any error in the law.

Procedural Irregularities

7. Appeals can be based on violations of procedural requirements outlined in the manual, such as:

8. Improper service of notices: Failure to issue or adequately serve general notices (Form No. 9) or individual notices (Form No. 10) as required under Paragraphs 35–39, denying parties the opportunity to object.

9. Non-compliance with evidence rules: Ignoring prima facie evidence of title or possession (e.g., registered documents, court orders, or possession proof) or failing to conduct necessary field inquiries/measurements (Paragraphs 47, 57–60).

10. Delay or omission in recording evidence: Not recording witness statements or documentary evidence properly, as mandated in Paragraphs 65–68.

11. In this case, I did not find Improper service of notices, Non-compliance with evidence rules & Delay or omission in recording evidence.

12. Having considered both parties' submissions and the Tahasildar report, this court finds no merit in the Petitioner's claims. The documents on record, including the Tahsildar's report, indicate that the mutation was conducted following the Orissa Mutation Manual 1962.

13. The Mutation Appeal No. 06/2017 is hereby dismissed.

Sd/-
Sub-Collector, Athamallik

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