COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 07 of 2014

(Against the order dated 14.05.1982 in OPLE Case No. 2783/1970-71 and Mutation Case No. 589/2013)

Anirudha Behera … Appellant v. Tahasildar, Athamallik and Basudeb Behera … Respondents

Decided on 15 October 2025

Mutation – Government land with possession noted in remarks column – Contradictory R.I. reports – No notice to person in possession. Where the R.I. had earlier reported that the applicant had no possession and later reported the opposite without explanation, and the person shown in possession in the remarks column was never served general or individual notice, the mutation is procedurally flawed and cannot stand.

Result: Appeal allowed. Mutation order set aside; remanded for fresh proceedings after notice to all parties.

ORDER

15.10.2025

1. The case was taken up today for order. The appeal is filed by Sri Anirudha Behera, son of Kanhu Charan Behera, a resident of Village Kadalimunda, against the order dated 14.05.1982 passed in OPLE Case No. 2783 of 1970-71 and the subsequent Mutation Case No. 589/2013, which mutated an extent of Ac. 0.04 of land from Plot No. 205, Kissam-Taila-II, under Holding No. 104, Village Kadalimunda, in favor of Sri Basudeb Behera.

Appellant'sSubmission

2. The appellant contends that he, along with his brother Sri Gadadhar Behera, has been in joint possession of Ac. 0.55 of land under Plot No. 205, Kissam-Taila-II, Holding No. 104, Village Kadalimunda. The appellant alleges that the order dated 14.05.1982 in OPLE Case No. 2783/1970-71, settling Ac. 0.30 of the said land in favor of Gadadhar Behera, was passed illegally without due notice or opportunity for the appellant to be heard. Further, the appellant submits that the mutation in Mutation Case No. 589/2013, allowing the transfer of Ac. 0.04 of land to Sri Basudeb Behera, was conducted without serving General Notice (GN) or Individual Notice to the appellant, rendering the process arbitrary and in violation of natural justice. The appellant claims to be in possession of Ac. 0.25 of the said land.

Respondent’s Submission

3. The Tahasildar, Kishorenagar, in their para-wise comments, confirmed that an encroachment case (No. 2783/1970-71) was initiated against the appellant and his brother, Gadadhar Behera, under the provisions of the Odisha Prevention of Land Encroachment (OPLE) Act, 1972. It was reported that Ac. 0.30 of Plot No. 205 was settled in favor of Gadadhar Behera, while the appellant is in illegal possession of the remaining Ac. 0.25. Regarding Mutation Case No. 589/2013, the Revenue Inspector, Boinda, allowed the mutation of Ac. 0.04 in favor of Basudeb Behera based on a Registered Sale Deed (RSD No. 11771140501 of 2013), which was approved by the then Tahasildar

as per the Odisha Mutation Manual, 1962.

Findings

4. Upon perusal of the case records, the following observations are made:

5. The Record of Rights (ROR) for Plot No. 205, Kissam-Taila-II, under Holding No. 104, Village Kadalimunda, is recorded in the name of the Government, with remarks indicating possession by Gadadhar Behera and Kanhu Charan Behera.

6. The order dated 14.05.1982 in OPLE Case No. 2783/1970-71, settling Ac. 0.30 of the land in favor of Gadadhar Behera, lacks evidence of proper notice or opportunity for the appellant to present his case, which violates principles of natural justice.

7. In Mutation Case No. 589/2013, the mutation of Ac. 0.04 in favor of Basudeb Behera was allowed based on the report of the Revenue Inspector dated 28.07.2013. However, prior reports in Mutation Case Nos. 04/2012 and 648/2012, dated 20.05.2012, stated that Basudeb Behera was not in possession of the case land, raising inconsistencies in the findings.

8. No evidence of service of General Notice or Individual Notice to the appellant was found in the records of Mutation Case No. 589/2013, rendering the mutation process procedurally flawed.

9. The appellant's claim of possession of Ac. 0.25 of the case land remains undisputed in terms of physical possession, as per the remark's column in the ROR.

Decision

10. In view of the above findings, it is evident that the order dated 14.05.1982 in OPLE Case No. 2783/1970-71 and the subsequent mutation order in Mutation Case No. 589/2013 suffer from procedural irregularities and violations of the principles of natural justice. The failure to serve notices to the appellant and the inconsistencies in the Revenue Inspector's reports undermine the legality of the orders.

11. Accordingly, the following orders are passed: The mutation order in Mutation Case No. 589/2013, allowing the transfer of Ac. 0.04 to Basudeb Behera is hereby set aside. The Tahasildar, Athmallik, is directed to initiate fresh proceedings in respect of Plot No. 205, Kissam-Taila-II, under Holding No. 104, Village Kadalimunda, ensuring compliance with the provisions of the Odisha Prevention of Land Encroachment Act, 1972, and the Odisha Mutation Manual, 1962. Proper notices shall be served to all parties concerned, including the appellant, and a fair opportunity shall be provided for a hearing before passing any orders. The appeal is allowed, and the matter is remanded to the Tahasildar, Athmallik, for fresh adjudication in accordance with the law. All parties are directed to cooperate in the proceedings.

Sd/-
Sub-Collector, Athamallik

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