COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 07 of 2016

(Against the order of the Tahasildar, Athamallik in Mutation Case No. 01/1996)

Jyotsnamayee Panigrahi … Appellant v. Achyutananda Panigrahi and others … Respondents

Decided on 22 April 2025

Mutation – Claim as adopted son – School certificate no proof of adoption – Limitation. A High School certificate naming the recorded tenant in the father's column is not proof of adoption. Without an adoption deed, legal heir certificate or proof of a valid customary adoption, mutation cannot be claimed as an heir. An appeal filed nearly 30 years after the order, without sufficient cause, is barred under paragraph 95 of the Orissa Mutation Manual.

Result: Appeal dismissed. Order of the Tahasildar upheld.

ORDER

1. The case is taken up today for order. One Jyotsnamayee Panigrahi W/O- Late Bibekanand Panigrahi has filed an appeal against the impugned order passed in Mutation case no 01/1996 by the Tahasildar Athamallik. The original LCR has been obtained from the Tahasildar, and it has been duly perused. The Tahasildar has denied the allegation stated by the appellant. I decided that it would rule curia advisari vult before deciding the case.

Statement of the Appellant

2. The appellant has submitted his petition in 9 points. Mainly claiming his client is the adopted son of the recorded tenant. He has also enclosed a High School Certificate where the name of the recorded tenants appears in the father column of the certificate. He has also enclosed a copy of the affidavit sworn in before the Notary Public Athamallik by the defendant in the year 1984, stating that the defendants have no objection if the land is recorded in the name of Bibekanand Panigrahi, the client of the appellant. As such, the mutation is erroneously allowed by the Tahasildar Mutation.

Statement of the Defendant

3. Though notices have been duly served vide process number 99 dated 04.05.2024, the defendants have not responded.

Statement of the Tahasildar

4. The Tahasildar has stated in his Para wise Comment dated 12.02.2025 that the Mutation Officer has maintained all formalities under the Mutation Manual 1962. General Notices have been duly served as available in the Mutation Case record.

5. Also, the Revenue Inspector has enclosed a genealogy certificate excluding the appellant.

6. The following questions need to be answered before any decision.

7. Whether the case is intuited as per paragraph 17 of the Orissa Mutation Manual 1962?

8. Have individual notice and General notice been duly served as per paragraphs 35 & 37 of the Orissa Mutation Manual 1962?

9. Were notices duly served as mentioned in paragraph 36 of the Orissa Mutation Manual 1962?

Whether an objection was preferred during the objection period?

10. Whether the applicant was the title holder/legal heir of the recorded tenant?

11. Is there any provision in the Orissa Mutation Manual 1962 to allow Mutation to an applicant on an HSC certificate where the father's name is the same as the name of a recorded tenant of a holding, without any valid adoption deed?

12. Is the case within the limitation period? If not, then is this sustainable in the eye of the law?

Findings

13. Yes, the case was instituted upon receipt of an application from the applicant Trilochan Panigrahi.

14. Yes, it has been duly served. Copies are available in this case record.

15. Yes, it has been duly served. Copies are available in this case record.

16. No. The appellant has not submitted any legal documents to support his claims. He has not submitted any legal heirs certificate issued by the competent authority. He has not submitted any adoption deed. Legal heirs certificate/genealogy tree prepared by the Tahasildar/Revenue Inspector is a condictio sine qua non to decide the matter of succession mutation.

17. No such.

18. No. This case is not filed within 30 days of the order of the case. No such records are available in this case record.

19. Further, de jure, inheritance, and adoption guidelines were dogged. These are the findings.

Scenario: Recorded Tenant Dies Issueless (Without Class I Heirs)

20. In this situation, the following could be considered for mutation of land records, even without a formal adoption deed:

21. No Claim of Adoption: If no individual is claiming to be an adopted child, and the deceased died without any other Class I heirs (like a widow, children, or mother), the mutation would likely proceed based on the next line of succession (Class II heirs, agnates, cognates) as per Hindu Succession Law. In this case, the absence of an adoption deed is irrelevant because no one is claiming through adoption.

22. Proof of Valid Customary Adoption: In rare cases, if the adoption occurred before the requirement of registration was strictly enforced or according to a recognized custom that didn't mandate a deed, the claimant might try to prove the validity of the adoption through strong evidence (witnesses, ceremonies, long-term acceptance as an adopted child, etc.). This is a difficult legal hurdle.

23. Lack of Legal Recognition: Without a registered deed (where required) or sufficient proof of a valid customary adoption, the claim of being an adopted child for inheritance purposes is unlikely to be accepted in most modern legal scenarios. Therefore, a mutation based solely on an unproven

adoption claim would likely be rejected.

24. As provided in Rules 3 and 41, all inquiries considered necessary for the disposal of mutation cases, like all other proceedings conducted under the Act, are to be summary in nature. That is to say, an elaborate and detailed recording of evidence and statements is not necessary. Only a substance thereof needs to be recorded. It has, however, to be noted that 'summary' does not mean 'arbitrary' and all relevant facts necessary for coming to a decision must be kept on the record. Rule 3 requires that, as far as may be practicable, certain stages of the inquiry are to be governed by certain provisions of the First Schedule of the Civil Procedure Code, 1908. These provisions are given in Appendix 15. The procedure cannot be made so summary as to short-circuit the spirit of any of these provisions. At the same time, it is necessary to impress on the parties that mutation proceedings are a fiscal inquiry and therefore they cannot decide any title. Hence, it is a waste of everybody's time, energy, and money to undertake an elaborate examination of the title in a mutation proceeding. The advocate of the appellant has not proved that his client was non compos mentis at the time of the Mutation, which was allowed in the year 1996. After a gap of 30 years, he has approached this court for remedial measures.

25. Paragraph 47 of the Orissa Mutation Manual reads as follows,

26. . “Prima facie title coupled with possession is sufficient to merit full recognition in the record-of-rights, The following are some of the more important points that are relevant for deciding mutation cases, namely (a) the possession under the color of any title; (b) the person or persons from whom rent is being received without any objection; (c) the connection of the present disputants with the persons recorded in the record-of-rights; (d) orders of competent Court dealing with titles; and (e) documents of transfer of title”,

27. Paragraph 95 of the Orissa Mutation Manual reads as follows,

> *“According to Clause (b) of Rule 42, an appeal must be presented within thirty days from the date of the order appealed against. For calculating this period, the day on which the judgment complained of was pronounced and the time taken for obtaining a copy of the order appealed against shall be excluded”.*

28. The advocate of the appellant has not proved that the defendants were non compos mentis at the time of the Mutation, which was allowed in the year 1996. After a gap of 30 years, he has approached this court for remedial measures. The appellant has not at all adduced any evidence on the content of valid adoption or customary adoption. This ratio decidendi for the balance of convenience lies in favor of the Mutation Officer. My decision to uphold or set aside the mutation was deemed intra vires because the power of a Revenue Officer is summary in nature. If I go beyond this, then it would be malum in se. Non-obstante veredicto, I am not inclined to alter the mutation order passed by the Tahasildar. Ergo, in consideration of the aforementioned facts, legal principles, and analysis, this court finds that the appeal sine merito. The appellant has failed to provide sufficient evidence to substantiate his claims, particularly concerning a valid adoption deed or legal heir certificate. Furthermore, the appeal was filed beyond

29. the prescribed limitation period. Consequently, the order passed by the Tahasildar is upheld, and the appeal stands dismissed."

Sd/-
Sub-Collector, Athamallik

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.