COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 08 of 2023

(Against the order dated 26.04.1980 in Suo Motu Mutation Case No. 844/1980 of the Tahasildar, Athamallik)

Appellant v. Respondents 1 to 5 (heirs of the lessee) and Tahasildar, Athamallik

Decided on 9 April 2025

Suo motu mutation – Lease settlement of 1974-75 – Appeal after 43 years. A Tahasildar may start mutation on his own motion. Where the record shows demarcation, fees realised and notice duly served, and the appeal is filed 43 years late without any application for condonation, the appeal is time-barred under paragraph 95 of the Mutation Manual. A High Court order permitting the appellant to pursue his statutory remedy does not by itself condone the delay.

Result: Appeal dismissed as time-barred and on merits.

ORDER

09.04.2025

1. The case was taken up today, and the Mutation appeal filed by the appellant was perused. The factual backdrop is as follows. The appellant is challenging the order of the illegal settlement of land in lease case number 275/1974-75 and the order passed in the suo-moto mutation case number 844/1980, in which the Hon'ble High Court of Orissa passed an order on 01.03.2013 giving liberty to the appellant to avail of the statutory remedy available.

2. The appellant mentioned that the settlement authority settled the lease case, measuring an area of 3.72 acres, in favour of the defendants. However, the said land was being cultivated by the father of the defendants as well as by the appellant. Their name was recorded in the remark's column of the ROR in Khata number 104, plot number 204/694. The name of the appellant was not recorded in the suo moto mutation case. The ASO Dhenkanal issued a report on plot number 204/694 of Khata No. 104, which corresponds to the Sabik Khata No. 3 plot number—163 area measuring 3.72 acres. The status was "Be-ain dakhal", Anirudh Behera and Gadadhar Behera. Based on this report, the RI deleted the names of the appellant.

3. The Government land measuring an area of 3.72 acres in question is alleged to have been settled in lease case number 275/1974-75 in favour of the father of the respondents 1 to 5. The settlement has been made without following the procedures and provisions of the relevant Act/Rules, without compliance with the order dated 10.02.1967 passed in suit number 492. The settlement made in favour of the father of the respondent's numbers 1 to 5 in encroachment case number 275/1974-75 and lease case number 275/1974 is illegal and liable to be set aside.

4. Hence, this appeal.

5. The appellant relied upon the following documents: A certified copy of the order dated 01.03.2023 was passed in WPC 3897/2016 by the Hon'ble High Court of Orissa.

Certified copy of ROR No. 104 of Mouza-kadalimunda

6. Patta issued in encroachment case no. 275/1794-75 by the Tahasildar Athmallik.

Report of the RI in Suomoto mutation case no. 844/1980

7. Certified copy of the order dated 26.04.1980 and notice in the suomoto mutation case number 844/1980 by the Tahasildar Athmallik

8. Certified copy of mutation ROR No. 1 of Mouza Kadalimunda.

9. Copy of Yadast dated 26.11.2013 issued by the settlement office, Dhenkanal.

10. Copy of the comparison report vide AI No. 1054 dated 26.07.2013 issued by the Settlement Officer, Dhenkanal

Power of Attorney of the appellant

ANALYSIS

11. Suo-moto mutation under the Revenue Laws of Odisha refers to the power of revenue authorities to initiate mutation proceedings on their own, without the need for an application from the interested parties. This is primarily governed by the Orissa Survey and Settlement Act, 1958, the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972, and the rules framed thereunder, including the Odisha Mutation Manual, 1962

12. Tahasildar's Power: Tahasildars in Odisha are empowered to initiate suo-moto mutation proceedings. This authority is often exercised when they receive information about land transfers or changes in ownership from various sources.

Grounds for Filing a Mutation Appeal

Error in Fact or Law

Procedural Irregularities

Improper Refusal to Exercise Jurisdiction

Contravention of Express Legal Provisions

Failure to Consider Relevant Evidence or Documents

Arbitrary or Summary Disposal

Gross Abuse or Injustice

Procedural Requirements for Filing an Appeal

13. Time Limit: The appeal must be filed within 30 days from the date of the Tahasildar’s final order, excluding the day of the judgment and the time taken to obtain a certified copy of the order (Paragraph 95).

Authority: Appeals lie to

14. The Sub-Divisional Officer (SDO) or Revenue Divisional Officer (RDO) if the order was passed by a Tahasildar or officer below their rank (Paragraph 92(a)).

15. The Collector if the order was passed by the SDO or RDO (Paragraph 92(b)).

16. The Collector may delegate appellate powers to subordinate revenue officers higher than SDO/RDO with Board of Revenue sanction (Paragraph 93).

17. Court Fee: The appeal application must bear a Court-fee stamp of Rs. 4 (Paragraph 99).

18. Certified Copy: A certified copy of the Tahasildar's order must accompany the appeal application (Paragraph 97).

Compliance with the procedures

19. Time Limit: The appeal memo has been filed after a gap of 43 years, which is beyond the limitation period of 30 days. No delay condonation has been filed.

20. Authority: This case is within the jurisdiction of this Court.

Court Fee: affixed

Certified Copy: yes, available

Compliance with the Grounds for Filing a Mutation Appeal

21. Error in Fact or Law: There is no such error in facts in this case.

22. Procedural Irregularities: Need elaboration.

23. Improper Refusal to Exercise Jurisdiction: - Do not arise.

24. Contravention of Express Legal Provisions: - Do not arise. Failure to Consider Relevant Evidence or Documents: Does not arise

25. . Arbitrary or Summary Disposal: No such.

Gross Abuse or Injustice: Does not arise

Initiation And Disposal of Cases by Tahasildars

26. on application for the same from any person interested

27. on a report furnished to him by any of his subordinates

28. on receipt of a notice from the Registrar or Sub-Registrar appointed under the Indian Registration Act, 1908;

29. on receipt of an intimation from a Court

30. on receipt of intimation on acquisition of land under the Land Acquisition Act;

31. on his own motion

32. This case has been initiated under clause (f)i. e-on his own motion

Procedural Requirements for Allowing Mutation

33. Prima Facie Evidence: Lease case number 275/1974- 75 granted in favour of the father of the respondents. (Paragraph 46). (Paragraph 47).

34. Field Inquiry or Measurement, the case land has been duly demarcated and Amin's fee has been realised as appears in the order dated 26.04.1980 (Paragraphs 57, 60).

35. Notice and Objection Period: Order dated 24.11.1980 of the Tahasildar clearly reflects that SR was back and duly served.

36. Unopposed cases can proceed to final orders if notices are adequately served (Paragraphs 35–39, 63).

37. Payment of Fees Mutation: - Amount realised vide RR No 41703 dated 24.11.80 and deposited at the Tahasil on 27.11.80 vide receipt number 12/1973 (Paragraphs 25, 32, 48).

38. REASONING: The primary ground for rejection of this appeal is the inordinate delay of 43 years in filing, which is well beyond the statutory limitation period of 30 days prescribed under Paragraph 95 of the Odisha Mutation Manual, 1962. The appellant's reliance on the Hon'ble High Court's order dated 01.03.2013 does not cure this defect, as it merely permitted the pursuit of statutory remedies without condoning the delay. Furthermore, the appellant has failed to substantiate claims of procedural irregularities or legal errors in the Tahasildar's order. The documents submitted do not provide sufficient grounds to overturn the original decision, which was based on the Revenue Inspector's report and the prevailing Record of Rights.

39. In view of the above findings, the appeal is hereby rejected on the following grounds: i) The appeal is time-barred, having been filed after a delay of 43 years without any application for condonation of delay or sufficient justification. ii)The appellant has failed to establish any error in fact or law, procedural irregularity, or gross injustice in the Tahasildar's order dated 26.04.1980 in Suo-Moto Mutation Case No. 844/1980. The appeal is dismissed, and the mutation order passed by the Tahasildar is upheld.

40. A copy of this order shall be communicated to the parties concerned and to the Tahasildar and Athmallik for necessary action.

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.