COURT OF THE SUB-COLLECTOR, ATHAMALLIK

Mutation Appeal No. 12 of 2014

(Against the order dated 21.01.2014 of the Tahasildar, Kishorenagar in Mutation Case No. 629/2013)

Co-sharer of Holding No. 20, Mouza Anandamunda … Appellant v. Government of Odisha (Marfat B.D.O., Kishorenagar) and Tahasildar, Kishorenagar … Respondents

Decided on 15 October 2025

Mutation on gift deed later declared void by civil court. Where the gift deed on which mutation was allowed has since been declared null and void by the civil court, the mutation and the khatian prepared on it cannot survive. The original record is restored and the Tahasildar must hold a fresh summary inquiry with notice to all co-sharers.

Result: Appeal allowed. Mutation set aside; khatian in favour of the Government cancelled and original RoR restored.

ORDER

15.10.2025

1. The case was taken up today. Perused the Mutation appeal petition filed by the appellant. The co-sharers, namely Bhagirathi Pradhan S/O of late Shyamaghana Pradhan, Padmanabha Pradhan, S/O of late Maheswar Pradhan, Krushnachandra Pradhan S/O of late Dayanidhi Pradhan, and Gourachandra Pradhan S/O of late Rajendra Pradhan of village Anandmunda, without the knowledge/consent of the present appellant, had registered a gift deed in favor of the OP No 1 before the registered officer Kishore Nagar. The property under the gift deed is Ac. 0.65 decimals vide plot number 91 appertaining to Khata number 20 of mouza Anandamunda.

2. By virtue of the said registered gift deed bearing number 1771300310, dated 17.06.2013, of the OP No 1 has applied for mutation of the property to his name vide Mutation case number 629/2013, and accordingly, on 21.01.2014, the respondent number 2 allowed the Mutation case. The record of Right bearing Khata number 49/138 of Mouza Ananandmaunda was prepared in favour of the respondent no 1. Hence, this appeal.

3. Ask Tahasildar Kishorenagar to submit PWC.

4. This appeal arises from the Mutation Case No. 629/2013, wherein the Respondent No. 2 (Tahasildar, Kishorenagar) allowed mutation of a property measuring Ac. 0.65 decimals, vide Plot No. 91, appertaining to Khata No. 20 of Mouza Anandmunda, in favor of Respondent No. 1 (Government of Odisha, Marfat BDO, Kishorenagar) based on a Registered Gift Deed bearing No. 1771300310 dated 17.06.2013. The Record of Rights (RoR) was subsequently prepared under Khata No. 49/138 in favor of Respondent No. 1. The appellant has challenged the mutation on the grounds that the said gift deed was executed by co-sharers Bhagirathi Pradhan, Padmanabha Pradhan, Krushnachandra Pradhan, and Gourachandra Pradhan without the knowledge or consent of the appellant, who claims to be a co-sharer of the property.

5. The Mutation Appeal Petition filed by the appellant was perused.The report dated 22.09.2025 submitted by the Tahasildar, Kishorenagar, was examined. The report confirms that Holding No. 20 of Village Anandmunda is recorded in the names of Premanand Pradhan, Udia Pradhan, Shyamaghana Pradhan, Maheswar Pradhan, Jogendra Pradhan, Rajendra Pradhan, and Gajendra Pradhan. The said plot (Ac. 0.65, Plot No. 91, Kissam Jalasay-II) was gifted to the Government of Odisha, Marfat BDO, Kishorenagar, vide Registered Gift Deed No. 11771300314 dated 17.06.2013. The mutation was allowed after due process under Section 47 of the Odisha Mutation Manual, 1962, following issuance of notices to vendors and vendee, publication of general notice, and no objections being received within the stipulated period.

6. The appellant's advocate submitted that the said gift deed (RSD No. 11771300310 dated 17.06.2013) was declared null and void by the Civil Judge (Senior Division), Athmallik, vide order dated 17.12.2018. A certified copy of the said order dated 22.02.2018 was perused, confirming that the gift deed has indeed been declared null and void.

Legal Provision

7. As per Section 47 of the Odisha Mutation Manual, 1962, mutation proceedings are summary in nature and must be based on valid title documents. Mutation cannot confer title but reflects existing rights based on lawful transactions.

8. The declaration of the gift deed as null and void by the Civil Judge (Senior Division), Athmallik, vide order dated 17.12.2018, renders the basis of the mutation legally invalid, as the gift deed no longer holds legal effect.

Findings

9. The gift deed (RSD No. 11771300310 dated 17.06.2013), which formed the basis for the mutation in favor of Respondent No. 1, has been declared null and void by a competent civil court on 17.12.2018.

10. The mutation order dated 21.01.2014, passed by Respondent No. 2, relied solely on the said gift deed, which now stands invalidated.

11. The mutation proceedings under Case No. 629/2013, resulting in the preparation of the Record of Rights under Khata No. 49/138, are therefore unsustainable in law, as they are based on a document that has been judicially declared void.

12. The appellant's claim of being a co-sharer without knowledge or consent of the gift deed further strengthens the case for setting aside the mutation, as co-sharer consent is critical for such transactions under the Transfer of Property Act, 1882, and the Odisha Land Reforms Act, 1960.

13. In view of the above findings and in light of the provisions of the Odisha Mutation Manual, 1962,, the mutation order dated 21.01.2014 passed by the Tahasildar, Kishorenagar, in Mutation Case No. 629/2013 is hereby set aside. The Record of Rights prepared under Khata No. 49/138 in favor of the Government of Odisha, Marfat BDO, Kishorenagar, is cancelled.The Tahasildar, Kishorenagar, is directed to restore the original Record of Rights as it existed prior to the mutation order dated 21.01.2014, reflecting the names of the recorded tenants, including the appellant, as co-sharers of Holding No. 20, Plot No. 91, Mouza Anandmunda.The Tahasildar shall issue a fresh

notice to all co-sharers and conduct a summary inquiry under Section 47 of the Odisha Mutation Manual, 1962, to ascertain the rightful title holders and update the Record of Rights accordingly.The process shall be completed within a period of three months from the date of receipt of this order.A copy of this order shall be communicated to the BDO, Kishorenagar, for information and necessary action.

Sd/-
Sub-Collector, Athamallik

Odisha Revenue Laws · Revenue Court Orders. Reported for the reference of revenue officers. Two High Court citations in the original order that could not be verified have been omitted. The order applies to its own facts; check the current law before relying on it.