COURT OF THE SUB-COLLECTOR-CUM-APPELLATE AUTHORITY, ATHAMALLIK

Mutation Appeal No. 16 of 2026

(Arising out of Mutation Case No. 7357/2025 and Mutation Case No. 1013/2022 of the Tahasildar, Athamallik)

Bidesi Sahoo and others … Appellants v. Sunil Kumar Sahoo, Tahasildar, Athamallik and another … Respondents

Decided on 20 November 2026

Mutation on a partition decree – Earlier sales suppressed – Entry in excess of decretal share. Where a decree-holder obtained mutation of his full decretal share while suppressing sales he had already made and that had already been mutated, the entry exceeds his entitlement and must be corrected. Fraud and suppression vitiate every proceeding (*S.P. Chengalvaraya Naidu v. Jagannath*, (1994) 1 SCC 1), so delay is condoned. The Tahasildar must prepare a plot-wise reconciliation of each branch's decretal share less lawful transfers.

Result: Appeal allowed. Excess entries set aside; plot-wise reconciliation and correction directed within 60 days.

ORDER

1. The record is put up today for orders. Khata No. 57 of Mouza Titirikata, comprising 13 plots with a total area of Ac.5.420 dec., stood jointly recorded in the names of Raghunath Sahoo and Nityananda Sahoo, sons of Achyuta Sahoo. In T.S. No. 34/1993, filed by Raghunath Sahoo before the learned Civil Judge, Athamallik, a final decree was passed on 05.08.2022 on the report of the Amin Commissioner, allotting Ac.2.710 dec. to each brother.

2. Facts and the Tahasildar’s comments: In his parawise comments (Letter dated 28.10.2026), the Tahasildar, Athamallik reports the following. While the suit was pending, Raghunath Sahoo had sold Ac.0.390 dec. through registered sale deeds, and those portions had already been mutated in favour of the purchasers. After the decree, Raghunath Sahoo applied in Mutation Case No. 1013/2022 for mutation of Ac.2.610 dec. on the basis of the decree, suppressing these earlier sales. That area was recorded in a new Khata No. 69/164 without enquiry. After his death, his son Sunil Kumar Sahoo also sold a portion, and Column II of Khata No. 69/164 was corrected in Mutation Case No. 7357/2025. The Tahasildar candidly states that the mutation was allowed because the plaintiff suppressed the earlier sales from both the Civil Court and the Mutation Officer. The appellants, heirs of Nityananda Sahoo, contend as follows. Out of Raghunath Sahoo’s decretal share of Ac.2.71 dec., Ac.0.61 dec. had been transferred (Ac.0.39 dec. by Raghunath Sahoo and Ac.0.22 dec. by his successor), so only Ac.2.10 dec. should stand in the name of his successors, but Ac.2.39 dec. is recorded. Their own branch has transferred Ac.0.49 dec. out of its share. Respondent No. 1, Sunil Kumar Sahoo, examined on 26.10.2026, admits the decree, his father’s share of Ac.2.71 dec., and that both his father and he sold portions of the land.

3. Delay: The appellants have filed a petition under Section 5 of the Limitation Act. The impugned entries rest on an application which, on the Tahasildar’s own showing, suppressed material facts. Fraud and suppression vitiate every proceeding they touch (S.P. Chengalvaraya Naidu v. Jagannath,

(1994) 1 SCC 1). A public record that is admittedly wrong should not be allowed to stand merely on the ground of delay. The delay is condoned.

4. The law: Mutation proceedings under Rules 34 to 41 of the Odisha Survey and Settlement Rules, 1962 ("the OSS Rules"), read with the Orissa Mutation Manual, 1962, are summary proceedings for keeping the Record-of-Rights up to date for fiscal purposes. A mutation entry neither creates nor extinguishes title, and complicated questions of title cannot be decided in such a proceeding (Jitendra Singh v. State of M.P., Supreme Court, 2021; Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186). The Mutation Manual is executive in nature and cannot override the OSS Rules. Under Rule 34(c) of the OSS Rules, the Record-of-Rights is to be corrected on the basis of a decree or order of a Civil Court. That correction must give effect to the decree as it is, not more and not less. Transfers made by a party during the pendency of the suit are subject to the result of the suit under Section 52 of the Transfer of Property Act, 1882, and must be adjusted against that party's share when the decree is implemented in the revenue record.

5. Discussion: On the admitted position, Raghunath Sahoo's branch was entitled under the decree to Ac.2.710 dec. in all. Of this, Ac.0.390 dec. had already been transferred by him and mutated in favour of his purchasers. Yet Ac.2.610 dec. was recorded in his name in Khata No. 69/164, without accounting for those transfers. On the face of the record this exceeds his decretal entitlement by Ac.0.290 dec., and the excess has carried through into the present entry in Mutation Case No. 7357/2025. The Tahasildar admits the suppression. The figures given by the parties for later transfers (Ac.0.12 dec. or Ac.0.22 dec. by Sunil Kumar Sahoo) differ and need to be verified plot by plot from the sale deeds and mutation records. The Nityananda branch's entitlement must likewise be worked out as its decretal share less its own transfers. This Court is satisfied that the entries made in Mutation Case Nos. 1013/2022 and 7357/2025 do not conform to the decree in T.S. No. 34/1993, and must be re-examined after a proper plot-wise reconciliation.

6. In the result, the appeal is allowed. The orders passed in Mutation Case No. 1013/2022 and Mutation Case No. 7357/2025 are set aside to the extent that they record in favour of the successors of Late Raghunath Sahoo any area in excess of his decretal share of Ac.2.710 dec. less the areas transferred out of it. The matter is remitted to the Tahasildar, Athamallik with the following directions:

(i) He shall obtain and verify the certified copy of the final decree dated 05.08.2022 in T.S. No. 34/1993 with the Amin Commissioner's allotment schedule. He shall also verify every registered sale deed and mutation order relating to the original Khata No. 57, including Mutation Case Nos. 674/2006, 538/2007, 846/2013, 1389/2013, 802/2024, 873/2006, 1378/2023, 1219/2023 and 1220/2023, and prepare a plot-wise reconciliation statement for each branch.

(ii) He shall correct the Record-of-Rights of Khata No. 69/164, and of the khata standing for the Nityananda Sahoo branch, so that each branch is recorded only for its decretal share of Ac.2.710 dec. less the areas lawfully transferred out of that share, with the purchasers' entries left undisturbed.

(iii) Before making the correction he shall give notice to respondent No. 1, Droupadi Sahoo and the other successors of Raghunath Sahoo, the appellants, and every purchaser whose entry may be affected. The exercise shall be completed within 60 (sixty) days of receipt of this order.

(iv) Until then, no further mutation shall be allowed in Khata No. 69/164 on the basis of any transfer by the successors of Raghunath Sahoo, except in accordance with this order.

7. Send a copy of this order along with the LCR to the Tahasildar, Athamallik for compliance, and supply copies to the parties. The appeal is disposed of accordingly.

Sd/-
Sub-Collector-cum-Appellate Authority, Athamallik

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