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

Mutation Appeal No. 18 of 2026

(Arising out of the order dated 11.10.2023 of the Tahasildar, Athamallik in Mutation Case No. 916/2023)

Bijaya Laxmi Dash … Appellant v. Tahasildar, Athamallik … Respondent

Decided on 20 November 2026

Mutation appeal – Limitation under Rule 42 of the OSS Rules – Purchase through a vendor claiming under an unproduced will. An appeal filed long after the period of limitation, with no application or cause shown for condonation, is barred. But an order merely dropping a mutation case for want of documents decides no rights, and the purchaser may apply afresh with the deed, the will and a genealogy of the recorded tenant, after which all legal heirs must be noticed.

Result: Appeal dismissed as time-barred, with liberty to file a fresh mutation application with the will and genealogy.

ORDER

1. The record is put up today for orders. The appellant purchased Ac.0.12 dec. (Plot No. 103, Taila-I, Ac.0.10 dec. and Plot No. 103/255, Taila-I, Ac.0.02 dec.) of Holding No. 10 of Mouza Bhandarikata from Krishna Chandra Mishra under RSD No. 583/2004. The land stands recorded in Holding No. 10 in the name of Upendra Mishra, the vendor's grandfather, and others. The deed recites that the vendor derived his title through a Willnama bearing No. 12 dated 18.08.1998. The appellant's Mutation Case No. 916/2023 was dropped by the Tahasildar on 11.10.2023, on the R.I., Madhapur's report that the legal heirs of the recorded tenants could not be ascertained because they were dead and lived outside the jurisdiction. The appellant challenges that order in this appeal, filed in 2026.

2. Record: The R.I., Madhapur reported on 29.09.2023 that notices were served and no objection was received, but that the legal heirs of the recorded tenants could not be ascertained. The vendor's title through the Willnama also remained unverified. In his parawise comments, the Tahasildar submits that the chain of title from the recorded tenant to the vendor rests on an unproduced and unverified Willnama, and that the legal heirs of the recorded tenant have not been identified. A summary mutation proceeding cannot be used to decide such questions. On 18.11.2026 the learned counsel for the appellant was advised to file a petition for condonation of delay and the legal heir certificate / genealogy of the recorded tenant and the case was posted to 25.11.2026. No petition for condonation of delay has been filed, and no explanation has been offered for the delay.

3. Limitation: Rule 42(2) of the OSS Rules prescribes the period within which an appeal must be presented; the period is 180 days under the 2020 amendment. The impugned order was passed on 11.10.2023. By the appellant's own case she came to know of it on 05.10.2024, yet the appeal was filed only in 2026, long after even the extended period had run out. Delay can be condoned only on sufficient cause being shown. Here no application has been made and no cause shown, even after a specific opportunity was given. The appeal is therefore barred by limitation.

4. Liberty to apply afresh: It is nonetheless relevant that the impugned order merely drops the case, with a one-line reason, without deciding the appellant's claim on merits. Mutation is a continuing statutory function under Rule 34 of the OSS Rules to keep the Record-of-Rights up to date. An order dropping a case for want of documents does not decide anyone's rights, and does not bar a fresh application supported by the required documents. A mutation based on a will requires that the will be produced and verified, and that all legal heirs of the recorded tenant be given notice. Where the will or the heirship is genuinely disputed, the parties must go to the Civil Court.

5. In the result, the appeal is dismissed as barred by limitation. This shall not prevent the appellant from filing a fresh application for mutation before the Tahasildar, Athamallik under Rule 34 of the OSS Rules on the basis of RSD No. 583/2004. With it she must file the original deed, a certified copy or the original of Willnama No. 12 dated 18.08.1998, and a legal heir certificate or genealogy of the recorded tenant(s) of Holding No. 10. If such an application is filed, the Tahasildar shall issue individual notices to all legal heirs of the recorded tenant(s), and a general notice. He shall verify the documents and dispose of the application on its merits by a reasoned order in accordance with the OSS Rules and the Orissa Mutation Manual, without being influenced by the earlier order of dropping. Nothing in this order is a finding on the validity of the Willnama or of the sale deed.

6. Send a copy of this order along with the LCR to the Tahasildar, Athamallik, and supply a copy to the appellant. The appeal is disposed of accordingly.

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