COURT OF THE REVENUE OFFICER-CUM-SUB-COLLECTOR, ATHAMALLIK

OLR Case No. 01 of 2022 (Section 23-A, OLR Act)

Gobinda Pande … Petitioner v. Chintamani Chaulia … Opposite Party

Decided on 9 April 2025

Odisha Land Reforms Act, 1960 – Sections 22 and 23-A – Keuta caste – Sale of 1981 before inclusion in SC list – Trespass on remaining land. Keuta was added to the Scheduled Caste list for Odisha (as a synonym of Dewar) only by the Constitution (Scheduled Castes) Order (Second Amendment) Act, 2002. A sale made by a Keuta raiyat in 1981 therefore did not need permission under section 22, and possession under that sale cannot be disturbed under section 23-A. But a non-SC person found occupying, without any transfer, another part of the raiyat's holding after she became a Scheduled Caste raiyat can be evicted under section 23-A.

Result: Petition allowed in part. Eviction ordered from 0.02 acre found under unauthorised occupation; Tahasildar to restore possession.

ORDER

09.04.2025

1. The case is taken up today for order. The brief case of the case is that one Gobinda Pande W/O- Durgacharan Pande, caste Keunta, resident of village Kadapada under Athamallik Police Station of Angul District submitted a petition stating one Chintamani Chaulia S/O- Daitari Chaulia, caste: Dumala who belongs to a non-SC caste has forcibly occupied her following land schedule

2. LAND SCHEDULE | Mouza | Khata No | Plot No | Area in Ac | Kissam | Kadapada | 61/20 | 283/1304 | 0.12 | Gharbari | 283 | 0.08 | Gharbari

3. After this notice was issued to the petitioner and defendants. The hearing was concluded on 23.03.2025.

Statement of the Petitioner

4. On 02.07.2022 he said that the case land is recorded in his name and he has been in possession of the land for the last 50 years. Further, he has stated that the defendant, Chintamani Chaulia S/O Daitari Chaulia, fraudulently transferred and recorded the case land in his name in the year 1987.

09.04.2025

5. He came to know it from the revenue inspector that the case land has been recorded vide MC NO 228/1981 in the name of the defendant. He, therefore, prayed for restoration of the case land.

Statement of the Defendant

6. He said that he is the grandson of the recorded tenant, namely Chintamani Chaulia S/O- late Daitari Chaulia of holding No 61/20 of Mouza- Kadapada, appertaining to Plot No 283/1304, which is clearly mentioned in the ROR and in the certified trace paper that is issued by Tahsildar Athamallik. Late Chintamani Chaulia had purchased it on 08.09.1980, vide RSD No. 864, followed by proper guidelines of registration, and paid the cost of the landed property from the recorded tenant, namely Mandodari Pandey W/O- Late Durga Prasad Pande. Since their family is residing

peacefully on the case land by way of the construction of a dwelling house. Further, late Mondodari Pande was issueless as a result of her adopted son, namely Gobinda Pande, with his other two brothers, forcefully constructing a cowshed in front of their house and threatening him regularly.

09.04.2025

7. Further, the defendant said that on the date of execution of the sale deed, i.e., 08/09/1980, in favor of OP, the executant of the sale deed, namely Mandodari Pande, was not an SC person or did not declare her caste (Keunta) as SC category in the list of Scheduled Castes of Odisha. At that time only one judgment was made in the Hon'ble High Court of Orissa bearing number OJC 247/1978 dated 05.11.1979, and in the same year the State Govt. filed one appeal before the Hon'ble Supreme Court, and the Hon'ble Apex Court had upheld the order of the Hon'ble High Court.

8. Later on, the Union Govt had committed to executing the court order and issued one supporting order from the Government of Bharat Sarkar Ministry of Home Affairs, Mantralay, on 25.05.1981, bearing letter number 5C12016/22/80/6SBCD-IV for the issuance of an SC certificate to Keut, Kaibarta, and Dhibara as a synonym of 'DEWAR' and also said in this order 8

9. Adopting the substance of the ratio, it should follow that when there is no community known as 'Dhibara' upon which the petitioner is circulated, dated 20.07.1981. The paragraph from the circular is reproduced below.

09.04.2025

10. as such, and Dhibara essentially refers to the profession, which should be taken as included in the term Dhibara and also disclosed and relied on. This understanding emphasizes the importance of recognizing the professional context when interpreting the term. Therefore, it is crucial to consider all related aspects to ensure a comprehensive understanding of Dhibara's implications.

11. In view of the above judgment of the Hon'ble High Court, the Keuta, Kaibarta, and Dhibara communities have been treated as synonymous names of the Dewar community, which has already been specified in the Scheduled Caste list in relation to the State of Orissa, but formal inclusion of these names in the list of Scheduled Caste can only be done when legislation is enacted by the Parliament in this regard.

12. Then the Govt of Odisha has issued another order bearing number PL (i24/81-17659 Bhubaneswar on dated 24.07.1981) to every collector for the issuance of caste certificates.

13. In this context, in August 2001, a bill was introduced in the Parliament to grant the SC status to Kaibarta, Keuta, and Dhibara as synonyms of Dewar, excluding other synonym communities on the basis of the 1979 judgment of the Hon'ble High Court of Orissa. The said communities were added as synonyms of 'Dewar" in the list of SC communities of Odisha vide the Constitution (SC) order (2nd Amendment) Act 2002.

14. 09.04.25

Statement of the petitioner

15. The petitioner again on 27.10.2023 had submitted a petition for demarcation of land recorded in the name of both in his name and in the name of the defendant. He has stated that the identification

of land of an area measuring 0.08 acres of Plot Number 283 and 0.12 acres of Plot Number 283/1304 be done. He has also admitted that he is in possession of area 0.01 Ac of Plot No. 283 from the roadside and area 0.07 Ac towards the east of the land of Chintamani Chaulia.

Statement of the ADWO

16. The ADWO Athamallik on his report dated 20.12.2022 has stated that the opposite is in possession of the disputed land with 'Pat"a. But the other brothers of the petitioner, Udia Sethi and Nilachal Sethi, have constructed a cowshed in some portion of the case land.

Statement of the Revenue Inspector Kiakata

17. On 26.04.2022, the Revenue Inspector Kiakata carried out a demarcation of the case land. Both the plots 283 and 283/1304 were demarcated. After the demarcation was over, both the defendant and petitioner agreed to the demarcation and decided to vacate the possession of land not belonging to them. This was done in the presence of local witnesses of the village.

18. I have gone through the statements of the petitioner, defendant, Tahasildar Athamallik, Revenue Inspector Athamallik, ADWO Athamallik.

19. Following questions need to be answered before passing any order,

20. Whether the defendant is in possession of the land of petitioner?

21. Whether the petitioner is in possession of the land of the defendant?

22. Whether the ancestors of petitioner belong to SC category on the date of execution of the RSD?

Whether they have accepted the encroachment vice versa?

Answer

23. i) The report dated of RI Kiakata dated 04.04.2025 which is latest one clearly substantiates it. The area in possession of plot number 283 is 0.02 acres.

24. ii) The report dated of RI Kiakata dated 04.04.2025 which is latest one clearly substantiates it. The petitioner/his brothers are in possession of plot number 283/1304 of an area measuring 0.015 acres.

25. Hon'ble High Court of Orissa in WP(C)--6097/2005 on 6 August, 2013 have as ordered as

> *" it is very clear that the Court has no power to declare synonyms as equivalent to the caste specified in the Order. In the case at hand, the sale deed in question was executed and registered on 01.05.1981. There is no dispute that the caste Keuta was included in the Order (the schedule for the state of Orissa) by Central Act No.61 of 2002 published in Gazette of India Ext. No.73 dated 18.12.2002.*

26. " Prior to that Keuta caste was not in the Schedule for the purpose of the Constitution. The appellate and revisional authorities have accepted the petitioner's vendor as a member of a Scheduled Caste solely on the basis of Circular No.17659-H.T.W. dated 20.07.1981 which was issued on the basis of a judgment by this Court in O.J.C. No.247 of 1978, in which it was held that Keuta and Kaibarta being synonymous to Dhibara should be taken as included in the term Dhibara

which was then included in the Schedule of the Order, but that circular so also the decision of this Court that Keuta and Kaibarta should be declared to have been included in the Schedule has been rendered nugatory or inoperative consequent upon the law propounded by the Hon'ble Supreme Court in Nityanand Sharma's case

27. Further in view of above Judgment of Hon'ble High Court, Keuta, Kaibarta and Dhibara communities have treated as synonymous name of Dewar community which has already be specified in the Scheduled caste list in relation to the State of Orissa but formal inclusion of these names in the list of Scheduled caste can only be done when a legislation is enacted by the Parliament in this regard.

28. Then the Govt of Odisha has issued another order bearing number PL (i24/81-17659 Bhubaneswar on dated 24.07.1981 to every Collector for issuance of caste certificate.

29. In this context in August 2001 a bill was introduced in the Parliament to grant the SC status to Kaibarta, Keuta and Dhibara as synonyms of Dewar excluding other synonym community on the basis of 1979 Judgement of the Hon'ble High Court of Orissa. The said communities were added as synonyms of 'Dewar" in the list of SC communities of Odisha vide the Constitution (SC) order (2nd Amendment) Act 2002.

30. the caste of the petitioner was not included in the year 1981 in the Presidential order of Scheduled Caste list. As such the sale deed executed in the year prior to it can't attract the section 22 of the OLR Act 1960.

31. Yes. RI has reported it and it has been accepted by both the parties.

32. As regards the possession of plot number 283/1304 by the petitioner, it can't be evicted or restrained under the provision of section 23A of the OLR Act 1960. However, it is also confirmed that the defendant is in possession of land of the petitioner to the extent of 0.02 acres (Plot Number 283), which has been marked in the sketch map submitted by the RI (marked in pink color).

33. This portion of land is not recorded in the name of the defendant; he has purchased it at any point in time. Hence, here the provision under section 23A of the OLR Act 1960 is applicable. Although the caste of the petitioner was not included in the presidential order of the Scheduled Caste list, now it is appearing after the Constitution (SC) Order (2nd Amendment) Act 2002.

34. I am inclined to think that the defendant is required to be evicted from the land to the extent of 0.02 acres, which has been marked in the sketch map submitted by the RI (marked in pink color). The Tahasildar Athamallik is directed to restore the property as mentioned above and report compliance within one month.

Revenue Officer-cum

Sd/-

Revenue Officer-cum-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.