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

OLR Case No. 03 of 2026 (Section 23-A, OLR Act)

Rabindra Mahalik … Petitioner v. Bindu Sagar Behera and Ranjit Behera … Opposite Parties
Decided on 20 November 2026

Odisha Land Reforms Act, 1960 – Section 23-A – Government land settled with an SC raiyat in 1976 – Pleas of Government land, no delivery of possession and adverse possession. Once land is settled and recorded in the raiyat's name it is his holding, and earlier occupation of the larger Government plot gives no right against the settlee. Bare allegations of a fraudulent trace map cannot be examined in a summary section 23-A proceeding. A plea of adverse possession by persons who paid encroachment penalty to the Government is self-destructive, since payment of penalty acknowledges another's title.

Result: Petition allowed on contest. Eviction from Ac.0.500 dec. ordered; Tahasildar to demarcate and restore possession.

ORDER

1. The record is put up today for orders. This proceeding arises out of a petition filed by the Petitioner under Section 23-A of the Orissa Land Reforms Act, 1960 (hereinafter “the Act”), praying for eviction of the Opposite Parties (OPs) from the case land and restoration of possession to him. The case land is Mouza Gopalpur, Khata No. 51/65, Plot No. 203/394, Kisam Taila-I, area Ac.2.00 dec., under Purunamantri R.I. Circle of Athamallik Tahasil.

2. Case of the Petitioner: The Petitioner, a ‘Keuta’ by caste which is a Scheduled Caste, is the recorded tenant of the case land, which was settled with his father by the Tahasildar, Athamallik in the year 1976. Owing to old age, paralysis and physical infirmity he could not visit the land frequently, and the OPs, who own land nearby, took advantage of this and encroached upon a part of it. In Demarcation Case No. 7/2026 initiated at his instance, the R.I., Purunamantri took up demarcation, but the OPs created a disturbance and threatened him, and on 20.07.2026 they refused to vacate the encroached portion.

3. Case of the OPs: On notice, the OPs appeared through their Advocate. OP No. 1 filed a written objection. In it the OPs admit para 1 of the petition, i.e. that the Petitioner is the recorded tenant of the case land and a Keuta by caste. Their stand is that: (a) the Petitioner’s father had taken Ac.2.00 dec. on lease but delivery of possession was never given and no trace map was issued; (b) they are ‘Kandha’ (Scheduled Tribe) by caste and their family has cultivated Govt. Plot No. 203 (Ac.4.00 dec.) of village Gopalpur since the days of the Raja, has improved it and dug a pond on it, and had paid fines in encroachment cases, including one in 1990, the receipts of which were lost in the flood of 2001; (c) the Petitioner has fraudulently got a trace map prepared showing his plot over the land they possess; and (d) they have perfected title by adverse possession. In their deposition dated 29.10.2026 the OPs state that they have been in possession of the case land for the last 50 years, that the Petitioner was never in possession, and that the case land is Government land.

4. Enquiry: A report was called for from the Tahasildar, Athamallik vide this office Letter No. 4012 dated 11.09.2026. The Tahasildar, by Letter No. 1076 dated 24.09.2026, forwarded the field report dated 22.09.2026 of the Revenue Inspector, Purunamantri, prepared in the presence of local

witnesses. The report states that Khata No. 51/65 of Mouza Gopalpur, Plot No. 203/394, Kisam Taila-I, Ac.2.00 dec., stands recorded in the name of Rabindra Mahallik, S/o Banshidhar Mahallik, caste Keuta, and that out of Ac.2.00 dec., an area of Ac.0.500 dec. has been forcibly occupied by Bindusagar Behera and Ranjit Behera, sons of Dinabandhu Behera, caste Kandha, of village Malipadar. The Petitioner was examined on 25.09.2026 and the OPs on 29.10.2026. Heard the learned counsel for both sides and perused the record.

5. Points for determination: (i) Whether the Petitioner is a raiyat belonging to a Scheduled Caste and the case land is his holding, situated in a part of the State other than a Scheduled Area; (ii) whether the OPs are in occupation of any part of that holding; (iii) whether such occupation is unauthorised, or whether the pleas of the OPs (Government land, no delivery of possession, fraudulent trace map, adverse possession) justify it; and (iv) what relief the Petitioner is entitled to.

6. The law: Section 23-A of the Act empowers the Revenue Officer, on application by the owner or any person interested, or on his own motion, and after giving the person in occupation a reasonable opportunity of being heard, to order eviction of any person found to be in unauthorised occupation, by way of trespass or otherwise, of the whole or part of the holding of a raiyat belonging to a Scheduled Caste or a Scheduled Tribe in any part of the State other than a Scheduled Area, and to cause restoration of possession to the raiyat or his heirs. Under Section 23-B(2), in its application to such proceedings, the period of limitation under Article 65 of the Limitation Act, 1963 for immovable property belonging to a member of a Scheduled Caste or Scheduled Tribe is thirty years. A person evicted under Section 23-A who re-occupies the land without a valid transfer is liable to punishment under Section 68(3) of the Act. The protection under Section 23-A attaches to the holding of the Scheduled Caste or Scheduled Tribe raiyat. It applies to ‘any person’ in unauthorised occupation, whatever his caste. That the OPs themselves belong to a Scheduled Tribe therefore does not take them outside the provision.

7. Point (i): The caste certificate issued by the Tahasildar, Athamallik in Case No. 4015 dated 07.06.2011 shows that the Petitioner belongs to the ‘Keuta’ caste, a Scheduled Caste in Odisha. The Tahasildar’s report confirms that the case land stands recorded in his name with caste ‘Keuta’. The OPs have expressly admitted both facts in para 2 of their objection. There are minor variations in the spelling of the Petitioner’s name (Mahalik / Mahallik / Mala) and in his place of residence across the documents, but his identity has not been disputed. Mouza Gopalpur lies outside the Scheduled Areas of the State. Point (i) is answered in favour of the Petitioner.

8. Point (ii): The R.I.’s field report, prepared in the presence of witnesses, finds the OPs in forcible occupation of Ac.0.500 dec. out of Plot No. 203/394. The OPs themselves assert possession in their objection and in their deposition. Their occupation of that area is therefore established, and the only question is whether it is authorised.

9. Point (iii): (a) ‘Government land’: The OPs’ own objection admits that the Petitioner’s father obtained this very land on lease from the Government, and the Record-of-Rights stands in the Petitioner’s name. Once the land was settled and recorded, it ceased to be Government land and became the holding of the raiyat. Whatever the OPs’ occupation of the larger Government Plot No. 203 may have been before the settlement, it gives them no right against the settlee. A finally

published Record-of-Rights carries a presumption of correctness until it is set aside by a competent authority, and no such order has been produced.

(b) No delivery of possession / fraudulent trace map: These are bare allegations. No document has been produced, and no proceeding for correction of the record or the map is shown to have been instituted. A summary proceeding under Section 23-A is not the forum for questioning the correctness of the Record-of-Rights. The R.I. has located the encroachment with reference to the recorded plot.

(c) Adverse possession: The pleas of the OPs are mutually destructive. On the one hand they assert that the land is Government land and that they paid encroachment fines to the Government (as late as 1990). On the other they claim to have perfected title against the Petitioner by adverse possession. Payment of encroachment penalty is an acknowledgement of another's title and negatives the hostile animus that adverse possession requires. Adverse possession must be specifically pleaded and strictly proved: when the possession began, that it was open and continuous, and that it was hostile to the true owner for the full statutory period, which here is thirty years under Section 23-B(2). None of this has been proved. Not a single document has been produced. The loss of private receipts in a flood does not explain why the official encroachment case records, which would be available in the Tahasil office, were not called for. The claim of 50 or 100 years' possession is not supported by any evidence and is contradicted by the OPs' own admission that the land was settled with the Petitioner's father.

(d) Improvements: Earthwork, a pond or other improvements made on land that is not one's own do not create any right in it.

Point (iii) is therefore answered against the OPs. Their occupation of Ac.0.500 dec. out of Plot No. 203/394 is unauthorised within the meaning of Section 23-A of the Act.

10. In the result, the petition under Section 23-A of the Act is allowed on contest, and it is ordered as follows:

(i) The OPs, namely Bindu Sagar Behera and Ranjit Behera, both sons of Late Dinabandhu Behera of village Malipadar, and all persons claiming through them, are found to be in unauthorised occupation of Ac.0.500 dec. out of Plot No. 203/394, Kisam Taila-I, Khata No. 51/65, Mouza Gopalpur, which is the holding of the Petitioner, a Scheduled Caste raiyat. They are ordered to be evicted from it.

(ii) The OPs are directed to vacate the said area voluntarily, removing their standing crops and movables, if any, within 30 (thirty) days from the date of receipt of this order.

(iii) If the OPs fail to do so, the Tahasildar, Athamallik shall evict them. Before doing so he shall demarcate the encroached area with reference to the Record-of-Rights and the settlement map / trace map, in the presence of both parties (after notice) and local witnesses, with police assistance if necessary. He shall then restore possession of the said area to the Petitioner by actual delivery, prepare a possession-delivery report signed by witnesses, and submit a compliance report to this Court within 60 (sixty) days of receipt of this order.

(iv) The OPs are cautioned that re-occupation of the land after eviction without a valid transfer is an offence punishable under Section 68(3) of the Act.

(v) Nothing in this order prevents the OPs from pursuing any remedy available to them in law before a competent forum regarding the Record-of-Rights. However, the mere pendency of any such remedy shall not stall execution of this order unless it is stayed by a competent authority.

11. Communicate copies of this order to the Tahasildar, Athamallik for compliance and to the parties. The case is disposed of accordingly.

Sd/-

Revenue Officer-cum-Sub-Collector, Athamallik

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