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

OLR Case No. 04 of 2024 (Section 23-A, OLR Act)

Dhirei Sethi … Petitioner v. Suru Sahu and another … Opposite Parties

Decided on 9 April 2025

Odisha Land Reforms Act, 1960 – Section 23-A – Eviction of non-SC occupant from holding of a Scheduled Caste raiyat. Where a non-SC person is found in occupation of the holding of a Scheduled Caste raiyat without any transfer or permission of the Revenue Officer, the Revenue Officer, after hearing the parties, may order eviction and restoration of the land under section 23-A read with section 23(3).

Result: Petition allowed. Opposite parties to remove structures; Tahasildar to restore the land within one month.

ORDER

1. The case is taken up today for order. The brief case of the case is that one Dhirei Sethi W/O-Surendra Sethi, caste Dhoba, resident of village Kampala under Athamallik Police Station of Angul District submitted a petition stating one Suru Sahu and his son Mutu Sahu, 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 | Kampala | 169/213 | 574 | 0.08 | BF-2 | 575 | 0.06 | Gharbari

3. After this notice was issued to the petitioner and defendants. The hearing was concluded on 28.03.2025.

Statement of the defendants

4. The defendants said that they have taken possession of the case land by virtue of an agreement deed dated 28.03.1989, where they have paid Rs.2500 (Rupees Two Thousand Five Hundred Only) to the owner of the land, late Gokul Sethi, for the case land. As such, they are not in illegal possession of the land.

5. Further, they said that, since the year 1989, they have been in possession of the case land by way of the construction of a dwelling house thereon. The present petitioner is not the direct lineage of the RT, for which she is not aware of the facts. She has inherited the case land only in the year 2023. Hence, they prayed to dismiss the case.

Statement of the petitioner

6. The petitioner said that she is the niece of RT Gokul Sethi. She is not the original RT of the holding. The case land was earlier recorded in Khata number 36. It has been transferred to her by virtue of mutation in the year 2023. She is unaware of the transaction between the RT and the defendants.

Report of the Tahsildar Athamallik

7. The Tahsildar Athamallik, vide his letter number 240 dated 31.01.2025, submitted his opinion that he conducted an inquiry through Revenue Inspector Madhapur. It revealed that the petitioner, Dhirei Sethi W/O Surendra Sethi, is the owner of Khata number 169/213 of Mouza Kampala. But

Sri Suru Sahoo S/O- Katsu Sahoo and Mutu Sahoo S/O- Suru Sahoo are in possession of the plot number 575.

8. Area- 0.06 Ac Kissam- Gharbari, and Plot Number 574 Area 0.08 Kissam -Baje Fasal-II by way of construction of their dwelling house.

9. Section 22 of the OLR Act 1960 read as follows,

10. Restriction on alienation of land by Scheduled Tribes.

> *"(1)Any transfer of holding or part thereof by a raiyat, belonging to a Scheduled Tribe shall be void except where it is in favour of –*

11. a person belonging to a Scheduled Caste/Tribe;

12. a person not belonging to a Scheduled Caste/Tribe when such transfer is made with the previous permission in writing of the Revenue Officer: Provided that in case of a transfer by sale, the Revenue Officer shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe willing to pay the market price for the land is not available, and in case of a gift unless he is satisfied about the bona fides thereof.

13. (3.) Except with the written permission of the Revenue Officer, no such holding shall be sold in execution of a decree to any person not belonging to a Scheduled Caste/Tribe."

14. During the hearing it was confirmed that the defendants have not taken prior permission of the Revenue Officers prior to taking possession of the case land neither have they taken thereafter to take an effect. The defendants do not come under SC/ST Caste. As such the defendants have violated the provision as stated above.

15. Section 23A of the OLR Act 1960 read as follows,

16. 23A. Eviction of person in unauthorised occupation of property.

17. - "Where any person is found to be in authorised occupation of the whole or part of a holding of a raiyat belonging to a Scheduled Caste or of a raiyat belonging to a Scheduled Tribe within any part of the State other than a Scheduled Area, by way of trespass or otherwise, the Revenue Officer may either on application by the owner or any person interested therein, or on his own motion and after giving the parties concerned an opportunity of being heard, order eviction of the person so found to be in unauthorised occupation and shall cause restoration of the property to the said raiyat or to his heir in accordance with the provisions of Sub-section (3) of Section 23".

18. Reasonable opportunities have been given to the defendants. The caste of the defendants is also confirmed that they belong to non-SC/ST communities.

19. Their possession without any rights is also confirmed. As such, I am inclined to think that the defendants are required to be evicted from their possession so as to hand over the restoration of the case land to the petitioner.

20. The defendants are directed to remove their structures from the case land and hand over the case land to the petitioner. The Tahsildar Athamallik is directed to carry out the restoration of the case

land and submit the 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.