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

OLR Case No. 05 of 2026 (Section 23-A, OLR Act)

Dillip Nayak … Applicant v. Bhabagrahi Sahoo … Opposite Party

Decided on 20 November 2026

Odisha Land Reforms Act, 1960 – Section 23-A – Non-tribal occupant claiming permission from the ST raiyat's grandfather. An undocumented claim that the land was "allowed" by an earlier generation of the Scheduled Tribe raiyats does not authorise occupation; any parting with possession of an ST holding without the Revenue Officer's permission is itself barred. The non-tribal occupant who has built a house, cowshed and well is evicted, and the Tahasildar is directed to identify other non-tribal occupants for suo motu action.

Result: Application allowed on contest. Eviction and removal of structures within 45 days; enquiry into other occupants ordered.

ORDER

1. The record is put up today for orders. This proceeding arises out of an application dated 09.10.2026 filed under Section 23-A of the Orissa Land Reforms Act, 1960 (“the Act”) for eviction of the Opposite Party (OP) from the disputed land and restoration of possession to the Applicant. The disputed land is Mouza Dhauragoth, Khata No. 17, under Kishorenagar Tahasil: Plot No. 329, Kisam Gharabari, Ac.0.11 dec.; Plot No. 330, Kisam Taila-II, Ac.0.30 dec.; and Plot No. 332, Kisam Taila-II, Ac.0.16 dec. (total Ac.0.57 dec.).

2. Case of the Applicant: The Applicant and his co-sharers are the recorded tenants of Khata No. 17 (total area Ac.26.22 dec.), which is their paternal property. They belong to the ‘Gond’ (Gonda) community, a Scheduled Tribe. The OP, a ‘Chasa’ by caste, is a stranger to the land and has no right, title or interest in it. Without the Applicant’s knowledge or consent he has built a pucca house, a cowshed and an open well, and has raised a boundary over the disputed plots. He did not vacate when asked, and he is trying to put up more houses. The police at Handapa declined to intervene, treating it as a civil matter.

3. Case of the OP: On notice the OP appeared and was examined on 04.11.2026. He states that (a) besides his family, another fifteen to sixteen families are in possession of the land; (b) the land was allowed to them by the Applicant’s grandfather; and (c) he would be highly prejudiced if any coercive action were taken. He has filed no document in support of any of these statements.

4. Enquiry: A report was called for from the Tahasildar, Kishorenagar vide this office Memo No. 4971 dated 26.10.2026. The Tahasildar, by letter dated 17.11.2026, forwarded the field verification report of the Revenue Inspector, Handapa, Letter No. 358 dated 05.11.2026, prepared in the presence of local witnesses. The report states that Plot Nos. 329, 330 and 332 of Khata No. 17 stand recorded jointly in the name of the Applicant Dillip Nayak, S/o Late Chaitanya Nayak, and others, and that the said plots have been illegally possessed by the OP, Bhabagrahi Sahoo. A half-constructed structure of the OP stands over Ac.0.04 dec. of Plot No. 329, and an existing building of the OP stands over Ac.0.04 dec. of Plot No. 330. Heard the learned counsel for the Applicant and the OP, and perused the record.

5. Points for determination: (i) Whether the disputed land is the holding of raiyats belonging to a Scheduled Tribe, situated outside a Scheduled Area, and whether the Applicant can maintain the application; (ii) whether the OP is in occupation of the disputed land and whether that occupation is unauthorised; and (iii) relief.

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 Tribe or Scheduled Caste 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 22(1), a transfer of a holding or any part of it by a Scheduled Tribe raiyat to a non-tribal, without the previous written permission of the Revenue Officer, is void. Under Section 23-B(1), the burden of proving that such a transfer was valid lies on the transferee. Under Section 23-B(2), the period of limitation under Article 65 of the Limitation Act, 1963 for such property is thirty years.

7. Point (i): The R.I.'s report and the Tahasildar's report confirm that the disputed plots stand recorded jointly in the name of the Applicant and others in Khata No. 17. The Applicant pleads that the recorded tenants belong to the Gond community. 'Gond, Gondo' is notified as a Scheduled Tribe for the State of Odisha. The OP has not disputed this either in his deposition or otherwise. On the other hand, the OP is admittedly a 'Chasa', who does not belong to a Scheduled Tribe. Mouza Dhauragoth lies outside the Scheduled Areas of the State. As one of the joint recorded tenants, the Applicant is a 'person interested' and can maintain the application for the benefit of all co-sharers. Point (i) is answered in favour of the Applicant.

8. Point (ii): The R.I.'s field report establishes that the OP is in possession of Plot Nos. 329, 330 and 332 and has raised structures on Plot Nos. 329 and 330. The OP does not deny that he is in possession. His only explanation is that the land was 'allowed' by the Applicant's grandfather. This plea does not help him, for the following reasons. (a) No document, date or particulars of any such permission have been given. (b) Even if some such arrangement existed, any parting with a Scheduled Tribe raiyat's holding in favour of a non-tribal without the previous written permission of the Revenue Officer is void under Section 22(1), and the burden of proving a valid transfer under Section 23-B(1) has not been discharged at all. (c) Possession that began with the owner's permission is permissive and can never be adverse, and the OP has not even claimed, much less proved, thirty years of hostile possession. The statement that fifteen to sixteen other families are also in occupation does not make the OP's own occupation lawful; at most it shows that other persons may also need to be proceeded against. The OP's apprehension of prejudice from coercive action is not a ground recognised by law for retaining another's land. The occupation of the OP over Plot Nos. 329, 330 and 332 is therefore unauthorised within the meaning of Section 23-A of the Act.

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

(i) The OP, Bhabagrahi Sahoo, S/o Late Sukadeba Sahoo of village Dhauragoth, and all persons claiming through him, are found to be in unauthorised occupation of Plot No. 329 (Ac.0.11 dec.),

Plot No. 330 (Ac.0.30 dec.) and Plot No. 332 (Ac.0.16 dec.) of Khata No. 17, Mouza Dhauragoth, which is the holding of Scheduled Tribe raiyats. They are ordered to be evicted from it.

(ii) The OP is directed to vacate the said plots and to remove the house, half-constructed structure, cowshed, boundary and any other structures and movables put up by him within 45 (forty-five) days from the date of receipt of this order.

(iii) If the OP fails to do so, the Tahasildar, Kishorenagar shall evict him and remove the structures in accordance with law. Before doing so he shall demarcate the plots with reference to the Record-of-Rights and the settlement map, in the presence of the parties (after notice) and local witnesses, with police assistance if necessary. He shall then restore possession to the Applicant and his co-sharers (the recorded raiyats of Khata No. 17) by actual delivery, prepare a possession-delivery report signed by witnesses, and submit a compliance report to this Court within 75 (seventy-five) days of receipt of this order.

(iv) The Tahasildar, Kishorenagar shall also enquire whether any other non-tribal persons are in occupation of any part of Khata No. 17 of Mouza Dhauragoth, as stated by the OP, and shall submit a report with their particulars so that suo motu proceedings under Section 23-A of the Act can be initiated against them.

(v) If the OP is found to be landless or houseless, the Tahasildar may consider his case for allotment of homestead land under the schemes in force, on its own merits. This shall not delay the restoration ordered above.

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

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

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.