COURT OF THE SUB-COLLECTOR, ATHAMALLIK

OPLE Appeal No. 08 of 2026

(Against the order and Form-B eviction notice of the Tahasildar, Kishorenagar in OPLE Case No. 4-356/2024)

Pradeep Kumar Kataruka … Appellant v. Tahasildar, Kishorenagar … Respondent

Decided on 6 May 2026

Orissa Prevention of Land Encroachment Act, 1972 – Encroachment on Danda (objectionable) land by a boundary wall. Government land recorded as Danda is objectionable land meant for public use and cannot be settled with an encroacher. An appellant who is not a landless person and produces no document to rebut the Tahasildar's findings has no basis to resist eviction. The interim protection granted during the appeal is vacated.

Result: Appeal dismissed. Eviction order and Form-B notice upheld; Tahasildar to clear the encroachment.

ORDER

1. This is an appeal preferred by the Appellant, Pradeep Kumar Kataruka, under the relevant provisions of the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, challenging the eviction notice and order passed by the learned Tahasildar, Kishorenagar in OPLE Case No. 4-356/2024 concerning an area of Ac. 0.0200 under Plot No. 397, Khata No. 35 of Mouza-Pipalbahal (Kisam: Danda).

1. Statement of the Appellant

2. The case of the Appellant, as argued by his learned counsel and outlined in the appeal memo, is that:

3. The Appellant claims to be in actual, continuous, and undisputed possession of the schedule land for more than thirty (30) years, thereby seeking settlement under Section 8-A of the OPLE Act, 1972.

4. He has constructed a boundary wall over the government land.

5. He contends that the suit land does not come under any immediate public developmental or expansion work, arguing that Kishorenagar is a small town unlike major urban centers like Bhubaneswar or Angul, and hence the eviction proceedings should be dropped.

6. He further alleged that the lower court proceedings were initiated under political pressure rather than objective administrative assessment.

2. Direction of the Hon'ble High Court of Orissa

7. Prior to approaching this Appellate Court, the Appellant sought relief before the Hon’ble High Court of Orissa in W.P.(C) No. 4544 of 2026. The Hon’ble High Court, via an order dated 11.02.2026 passed by Hon'ble Justice B.P. Routray, disposed of the writ petition as withdrawn, noting:

> *"In the event appeal is preferred within a period of one month from today, the petitioner may not be evicted from the case land till such period or till filing of appeal, whichever is earlier."*

8. In accordance with the liberal implementation of the limitation period directed by the Hon'ble High Court, this appeal was admitted and taken up for regular hearing.

3. Report and Para-Wise Comments of the Tahasildar

9. The learned Additional Tahasildar, Kishorenagar, submitted detailed Para-Wise Comments and the original lower court record of OPLE Case No. 4-356/2024, revealing the following factual positions:

10. Initiation: The encroachment case was lawfully initiated in 2024 following the receipt of Form-G from the Revenue Inspector (RI), Kishorenagar. A show-cause notice under Form-A was properly issued to the encroacher under Section 9 of the Act.

11. Character of Land: The land in question belongs to Khata No. 35, Plot No. 397, Mouza-Pipalbahal, and its designated Kisam (type) is Danda (roadside/communal pathway). By nature, this classification is strictly objectionable under the legal framework and cannot be settled in favor of private individuals.

12. Financial Status: The recorded annual income of the Appellant is assessed at Rs. 6,00,000/-, which disqualifies him from being categorized as a "landless person" or eligible beneficiary for the settlement of government land under the provisions of the OPLE Rules.

13. Lack of Evidence: No matching entries or historical records were discovered in Register-IV to validate long-term possession. The Appellant failed to produce any documentary evidence proving uninterrupted, hostile, and undisputed possession for over 30 years as required under Section 8-A of the OPLE Act.

4. Legal Framework & Discussion

14. The matter has been thoroughly analyzed alongside the statutory parameters of the Orissa Prevention of Land Encroachment Act, 1972 and corresponding rules:

15. Section 4 & 6 (Liability to Assessment & Eviction): Any person unauthorizedly occupying government land is liable to pay assessment/penalty and is subject to summary eviction. The lower court properly levied a penalty of Rs. 14,950/- and passed an eviction order following the admission of encroachment by the party.

16. Section 7 (Priorities for Settlement): Settlement of encroached government land is an exception intended primarily for homesteadless or landless persons, provided the land is non-objectionable.

17. Section 2(b) & Objectionable Criteria: Land classified as Danda constitutes communal public property used for passages or thoroughfares. Encroachment upon such land creates a public bottleneck. The argument that "the town is not as big as Bhubaneswar" does not grant legal leverage to unauthorizedly occupy public utility spaces or secure a boundary wall over government property.

18. The Appellant has failed to provide any sustainable statutory basis or document to challenge the report and findings submitted by the Tahasildar, Kishorenagar.

5. Conclusion & Order

19. In view of the facts, circumstances, and statutory provisions outlined above, this Court arrives at the conclusion that the lower court proceedings in OPLE Case No. 4-356/2024 were conducted in perfect compliance with the law. The land is highly objectionable (Danda), and the Appellant does not meet the legal criteria for regularized settlement.

Therefore, it is ORDERED that

20. The Encroachment Appeal is hereby Dismissed as devoid of merit.

21. The final order and eviction notice issued under Form-B by the learned Tahasildar, Kishorenagar in OPLE Case No. 4-356/2024 are Upheld.

22. The interim protection against eviction stands vacated. The Tahasildar, Kishorenagar, is directed to take immediate legal steps to clear the encroachment of Ac. 0.0200 from Plot No. 397 of Mouza-Pipalbahal and restore the public property.

Sd/-
Sub-Collector, Athamallik

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