VOLUME 9

Board of Revenue Journals & Judgments

Journals of the Board of Revenue, Odisha and a Supreme Court judgment

09

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Upendra Luha, OAS

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GOVERNMENT OF ODISHA

J O U R N A L
OF THE
BOARD OF REVENUE, ODISHA

(Containing important Decisions of the Board of Revenue, Odisha and the High Court and O.A.T. of Odisha and important Orders and circulars of Government.)

VOLUME – I

C I T A T I O N
J.B.R. 2022 (I)

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FOREWORD

Land administration is one of the most crucial aspects of governance. Any educational institution or medical facility or sports complex or industrial project requires land. Rights over common lands have been recognised in various laws. Competing claims over the limited resource of land demand a transparent and accountable mechanism for effective governance.

Disputes over land need to be adjudicated in a timely manner. Various branches of revenue administration need to adopt modern technology to furnish accurate and timely responses to the concerned Courts, to enable timely decisions. Every pending case threatens the ease of doing business and has huge economic cost. The poor and vulnerable have a high dependency on the use of common property resources for their livelihoods, which need to be protected by the revenue officials as per appropriate provisions of law.

This volume is the third of the series that has been revived in 2018. It covers some of the notable Orders. It has notes indicating updated citations on lease of Government land, principles of resjudicata and on adverse possession. It is hoped that this will be of immense help in enriching the knowledge base among practicing advocates, Government officers, training institutions and all stakeholders. This in turn should help in timely adjudication of unresolved land related cases.

Suggestions for improvement are welcome.

G.V.V. Sarma
Member,
Board of Revenue, Odisha, Cuttack

16.02.2022
Cuttack

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R.P Case No. 831 of 2013

(Previously numbered as OSS Case No.57 of 2012)

Decided on 02.11.2021

(Order by Shri G.V.V.Sarma, I.A.S,
Member, Board of Revenue, Odisha, Cuttack)

Sri Gourang Prasad Parija ... **Petitioner**

-Versus-

State of Odisha represented through Collector, Khurda & others ... **Opp. Parties**

For the petitioner ... Mr. J. Pradhan, Advocate
who has been disengaged by the petitioner to conduct the revision case himself .
For Opp. Party No. 1 to 3 ... Mr. S. K. Routray,
Addl. Standing Counsel

For Opp. Party No. 4 to 6 ... None

D E C I S I O N

1. This revision case has been filed under Section 15(b) of the O.S.S Act, 1958 for correction of Hal R.O.R. of the suit land mentioned below which has been finally published on 21.03.1989.

SCHEDULE OF PROPERTY

Dist.- Khordha, Tahasil-Bhubaneswar, Mouza-Bhubaneswar Sahar, Unit No. 36, Rajarani, Hal Khata No. 51, Hal Plot No. 1208/1612, Area Ac. 0.093 dec. which is corresponding to Sabik Khata No. 506, Sabik Plot No. 1208/1603, Sabik Plot No. 3889/8 and 3892/41, Area Ac. 0.093 dec. of Sabik Mouza : West Baragada, Sub Plot No. 3889/A, Kisam-Puratan Patita, bounded by East-Manjushree Patnaik, West Road, South- Road and North- Plot No. 3889/6.

2. The petitioner states to have purchased the above suit land vide RSD No.6803 dtd. 20.08.1985 from Smt. Urmibala Mookharjee, W/o- Sri Satyabrata Mookhharjee, of 3A, Lovelock Street, Calcutta-700019 who was represented through her son as her Power of Attorney holder namely Sri Soumendranath Mookharjee, S/o- Sri Satyabrata Mookharjee, of same address on the basis of POA No. 5/102 dtd. 14.08.1985 executed before Bimal Kumar Banarjee, the Notary having Regd. No.145/80, C.M.M Court Compound, 2, Bankshall Street, Calcutta-700001. The petitioner has claimed to remain in possession over the suit land since the date of his purchase. The petitioner has filed the certified copy of the above mentioned regd. sale deed bearing RSD No.6803 dtd. 20.08.1985 in support of his claim. The petitioner has stated that during the last current settlement operation in the area he had failed to produce his sale deed before the settlement authorities due to his lack

of awareness about the settlement operation and he been staying outside of Khurda district for which reason the hal ROR of the schedule property is said to have been erroneously prepared and finally published by the settlement authorities in the name of his vendor Urmibala Mookhharjee (whose name is mentioned in the impugned Hal Khata No.51 as Urmilabala Mookharjee) , W/o- Sri Satyabrata Mookhharjee in 'Stitiban' status (Certified copy of the said impugned Hal ROR has been filed). The petitioner has filed a copy of death certificate of his vendor Urmibala Mookhharjee issued by Kolkata Municipal Corporation wherein the date of her death is mentioned as 07.02.2002. The petitioner states to have made her legal heirs as O.P. Nos. 4 to 6 in this case who are said to have succeeded to the interest of the vendor. By having assailed the above impugned Hal ROR in the present revision the petitioner has sought for recording of the hal schedule property in his favour with deletion of the name of hal recorded tenant (vendor) from the Hal ROR of the schedule property on the strength of his relied upon R.S.D and his possession over the suit land.

3. Notice has been deemed sufficient to the private O.P. Nos. 4 to 6 through registered post. However, no one has appeared on behalf of the O.P. Nos. 4 to 6 during hearing of the present case. There is also no written objection filed on behalf of the O.P. Nos. 4 to 6 against the claim made by the petitioner in this case. The learned Advocate for the petitioner has been heard in the matter in presence of the learned Addl. Standing Counsel for the State who represented the O.P. Nos. 1 to 3. Gone through the documents filed by the petitioner and the para-wise report on the suit land submitted by the concerned Settlement Authorities which are kept in the case record

4. The sabik & hal record status of the suit land submitted by the Asst. Settlement Officer of Addl-Sub-Collector, Puri (Settlement) in the para-wise report is seen to corroborate with the hal status submitted by the petitioner in the present revision. However, in the case record it was seen that the petitioner had not submitted any copy of said GPA document executed by Urmibala Mookharjee, W/o- Sri Satyabrata Mookhharjee in favour of her son Sri Soumendranath Mookharjee, S/o- Sri Satyabrata Mookharjee who had sold the suit land to the present petitioner as the Power of Attorney holder of Urmibala Mookharjee through RSD No.6803 dtd. 20.08.1985.

5. The petitioner has appeared in person in this Court proceedings and stated that Sri Soumendranath Mookharjee, S/o- Sri Satyabrata Mookharjee, the Power of Attorney holder of Urmibala Mookharjee, W/o- Sri Satyabrata Mookhharjee is also one of the legal heir of Urmibala Mookharjee who had executed the RSD No.6803 dtd. 20.08.1985 in favour of the petitioner in the office of the D.S.R, Khurda on the basis of POA No. 5/102 dtd. 14.08.1985 executed before Bimal Kumar Banarjee, the Notary having Regd. No.145/80, C.M.M Court Compound, 2, Bankshall Street, Calcutta-700001, West Bengal. The petitioner in his written submission has however submitted that the said G.P.A document which was executed in favour of Sri Soumendranath Mookharjee, S/o- Sri Satyabrata Mookharjee is presently missing

and for which the petitioner is unable to produce the same before this court. The petitioner has however produced the Afiidavit sworn by Satya Brata Mookherjee and Soumendra Nath Mookherjee (present O.P. Nos. 4 & 5) before the Metropolitan Magistrate (1st) Class, Kolkata alongwith an Affidavit sworn by Soumitra Mookherjee (present O.P. No.6) before the Notary Public, New Delhi wherein the said Opp. Parties have stated in the affidavits that they have no objection if the vendee of the schedule property namely Gouranga Prasad Parija (the present petitioner) be recorded as tenant by deleting the name of the recorded tenant, Smt. Urmibala Mookherjee.

6. During hearing of the present case the learned Addl. Standing Counsel for the State had raised objection regarding the non-production of GPA document bearing POA No. 5/102 dtd. 14.08.1985 by the petitioner. He further challenged the said document as worth not to be considered, the same being not a registered document. He stated that as per Sec. 17 of the Registration Act, documents pertaining to transfer of immovable property with more than Rs.100 /- require to be mandatorily registered. In reply the petitioner had stated that earlier the lands which were auctioned/ sold at Kolkata Metropolitan City the G.P.A documents were not all registered. Although one week time had been given to the petitioner he could not submit any further evidence in support of his above statement.

7. It is noted that Section 17 (1)(g) regarding Power of Attorney document was inserted only in Odisha Amendment Act 8 of 2002 to the Registration Act, 1908. Further, the point regarding value being Rs.100 or more is in Sub-section 1(b) of Sec.17 of the Registration Act. However, Section 17(2) clarifies that nothing in clauses (b) and (c) of Sub-section (1) applies to categories of documents at (i) to (xii). The exemption at (v) reads, " any document other than the documents specified in Sub-section (1A) not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will when executed, create, declare, assign, limit or extinguish any such right, title or interest; ". Thus it is clear that registration of Power of attorney document was not mandatory before 2002. In the instant case, the Power of attorney document was claimed to be executed in 1985.

8. It is further noted that the Power of attorney holder Soumendranath Mookherjee has signed the affidavit on 18.08.2021 which is placed in the case record.

9. In view of the above, benefit of doubt needs to be given to the petitioner, in the absence of anything contrary and in due consideration of the affidavit signed by Satyabrata Mookherjee and Soumendranath Mookherjee and separate affidavit signed by Soumitra Mookherjee.

10. It is therefore ordered that the revision petition is allowed in favour of the petitioner.

11. As such, the Tahasildar, Bhubaneswar is directed to delete Hal Plot No. 1208/1612, Area Ac. 0.093 dec. from Hal Khata No.51 of suit Mouza-Bhubaneswar Sahar, Unit No. 36, Rajarani and record the same in favour of the present petitioner Sri Gourang Prasad Parija, S/o- Late Narayan Prasad Parija in 'Stitiban' status.

12. Send copy of the order to the Tahasildar, Bhubaneswar for necessary compliance.

13. Original/Certified Copy of documents filed be returned to the petitioner by keeping Photo Copy of the same in the case record.

Pronounced the order in the open court to-day i.e. on the 2nd day of November, 2021.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack.

O.S.S Case No. 225 of 2018.

Decided on 14.12.2021

(Order by Shri G.V.V.Sarma, I.A.S,
Member, Board of Revenue, Odisha, Cuttack)

Buddhadeb Dutta ..... Petitioner
-Versus-
State of Odisha represented through Collector, Khurda & others ... **Opp. Parties**

For Petitioner ... None
(As petitioner himself conducted the revision)
For O.P. No.1 to 3 … Mr. S.K Routray,Addl. Standing Counsel.

D E C I S I O N

1. This Revision Petition has been filed Under Section 15(b) of the Orissa Survey & Settlement Act, 1958 for correction of Hal R-O-R of the suit land mentioned below which has been finally published on 21.11.2013.

SCHEDULE OF PROPERTY

Mouza- Andharua, P.S-Chandaka, Tahasil- Bhubaneswar, Dist- Khurda bearing Sabik Khata No.645/318, Sabik Plot No.2682/2977/3039/4071, Area Ac.0.070 dec., corresponding to Hal Khata No.2876, Hal Plot No.7419, Area Ac.0.070 dec. (Hect.0.0283).

2. The case of the petitioner in brief is that originally the Sabik Plot No.2682 of Mouza- Andharua belonged to Governement which is said to have stood recorded in 'Anabadi' Khata. One Nibas Nahak, S/o- Ghana Nahak, by caste- Adivasi (Sch.Tribe) is said to have been granted a piece of land out of the above suit sabik plot No.2682 by the Government on the basis of order passed by the Tahasildar,

Bhubaneswar in Wasteland Lease Case No.618/1959-60. Accordingly, the sabik ROR had been mutated and the Mutation Khata No.645/27 in respect of Mutation Plot No.2682/2977/3039, area Ac.0.900 dec. under 'Dakhal Satwa Sunya' status with Kisam- 'Baje Fasal-III' which is said to have been issued in favour of the aforesaid lessee Nibas Nahak, S/o- Ghana Nahak on dated.01.10.1970 (Certified copy of the said mutation khata has been filed). After the expiry of about 20 years from the date of lease, the lessee Nibas Nahak, S/o- Ghana Nahak for his legal necessities in order to transfer his leasehold land area of Ac.0.900 dec. is said to have applied for necessary permission U/s 22 of the OLR Act and thereupon to have obtained the required permission from the Revenue Officer, Bhubaneswar in Misc. Case No.354/1989 and communicated vide D.R.No.807 dated 10.09.1990 to sell the same in favour of one Sangram Kishore Nanda, S/o- Banabihari Nanda (Certified copy of the said permission order document in Misc. Case No.354/1989 has been filed). Thereafter, the original lessee Nibas Nahak, S/o- Ghana Nahak is said to have sold his aforesaid leasehold land of an area Ac.0.900 dec. to Sangram Kishore Nanda, S/o- Banabihari Nanda through R.S.D No.10133 dated 19.12.1990 (True certified copy of the said regd. sale deed has been filed). After purchase, Sangram Kishore Nanda is said to have got his above purchased area mutated in his favour on the basis of order passed by the Tahasildar, Bhubaneswar in Mutation Case No.1661 of 1991 and the Sabik Mutation Plot No.2682/2977/3039, area Ac.0.900 dec., kisam- Baje Fasl-III from Khata No.645/27 is said to have been recorded in his name under Mutation Khata No.645/242 (Certified copy of the said mutation khata alongwith certified copy of order proceedings in Mutation Case No.1661/1991 have been filed). While Sangram Kishore Nanda was in possession of his above purchased land he is said to have sold an area of Ac.0.070 dec. out of Ac.0.900 dec. of Sabik Mutation Plot No.2682/2977/3039 under Mutation Khata No.645/242 of Mouza- Andharua to the present petitioner Buddhadeb Dutta vide R.S.D No.1828 dtd. 08.06.1993 by having delivered to him the sold area as per the sketch map attached with the said Regd. sale deed (the said original R.S.D No.1828 dtd. 08.06.1993 has been filed). After purchase the petitioner states that his above purchased area had also been mutated in his favour by the Tahasildar, Bhubaneswar vide his order dtd.10.07.1995 passed in Mutation Case No.2703 of 1994 and basing on which the Mutation Khata No.645/318 with Sabik Mutation Plot No.2682/2977/3039 /4071, area Ac.0.070 dec. with kisam- 'Baje Fasal-III' is said to have been prepared in the name of present petitioner after the same area had been deleted from Mutation Khata No.645/242 of the petitioner's vendor (Certified copy of the order proceedings in Mutation Case No.2703/1994 and certified copy of said Mutation Khata No.645/318 alongwith certified copy of sketch map of the purchased land of the petitioner have been filed). The petitioner states to have paid rent of his above recorded land from 1994-95 to 2013-14 (Copies of the said rent receipts have been filed). During the Khanapuri stage of settlement operation on the basis of order passed in Yaddast No.7419 the suit Hal Plot No.7419, Area Ac.0.070 dec. (Hect.0.0283) is said to have been initially prepared by the settlement authorities in the name of the present petitioner and the

draft ROR vide Khata No.2272 for the suit Hal Plot No.7419, Area Ac.0.070 dec. with kisam-'Taila' is claimed by the petitioner to have been rightly prepared in his name (Certified copy of Yaddast No.7419 and the draft Khata No.2272 of suit Mouza have been filed). However, subsequently, on the basis of suo-moto Rent Objection case bearing No.7472/3416 of 2013 filed by the Government against the present petitioner, the Asst. Settlement Officer is said to have disposed of the said objection case behind the back of the present petitioner in a stereotype order arbitrarily by reversing the earlier allowed order passed in Yaddast No.7419 (Certified copy of order dated 15.07.2013 of the Asst. Settlement Officer passed in the said suo-moto Objection case No.7472/3416 of 2013 has been filed). The petitioner has alleged that the Asst. Settlement Officer in his order passed in the above suo-moto objection case has illegally ignored and nullified the lease granted by the Tahasildar in favour of the original lessee Nibas Nahak, S/o- Ghana Nahak in Waste land Lease Case No.618 of 1959-60 without authority to do so. Thereby the order passed by the Asst. Settlement Officer in the above suo-moto objection case to record the case land in 'Jungle' kisam under 'Abad Jogya Anabadi' khata of the State Government behind the back of the present petitioner is claimed wrong and illegal. The petitioner has contended that as he was never given any notice nor he had any knowledge about the said order passed by the Asst. Settlement Officer in the above suo-moto objection case he could not prefer any appeal in challenging the said order. Now as the hal ROR of the suit land has been finally published under Government 'Anabadi' khata bearing Hal Khata No.2876 with 'Jungle' kisam (the certified copy of the said impugned Hal ROR alongwith hal & sabik correlation of suit Hal Plot No.7419 have been filed) the petitioner has preferred the present revision by assailing the same and has sought the correction of the said impugned Hal ROR in recording the suit land in his favour with kisam 'Baje Fasal-III' under 'Stitiban' status on the strength of his purchase and possession.

3. The sabik & hal status of the suit land submitted in the para-wise report by the Cuttack Major Settlement authorities and also in the status report furnished by the Addl. Tahasildar, Bhubaneswar are seen to corroborate with the sabik & hal status stated in the revision petition. Further on perusal of the certified copy of order dated 15.07.2013 of the Asst. Settlement Officer in the Suo-moto Objection Case No.7472/3416 of 2013 which has been submitted by the petitioner it reveals that the learned Asst. Settlement Officer in allowing the aforesaid appeal has made the following observations, that "*It has come to the notice that a lot of irregularities have been made in the Tahasil level in different lease cases. Recently a lease case has come to the notice of the Government which was sanctioned in the year 1966, but the form used for this purpose was printed out in Governement Press in the year 1969. The Hon'ble High Court of Odisha in their order dated 29.01.1996 in O.J.C Case No.9449 of 1993 also observed that the irregularities have been done in respect of lease cases in the Bhubaneswar Tahasil level and directed the State Governement to enquire into the lease cases by an officer in the rank of Secretary. In the present*

case no party has filed any documents to prove that the lease case in respect of suit plot has been scrutinized. Hence, the court thought it proper not to record the Government land in favour of private individual. The affected parties have scope to appeal before the appellate authority to prove the genuineness of their claims." The aforesaid order passed by the learned Asst. Settlement Officer however is seen not a conclusive order as no where it has been stated that the concerned Tahasil records and verification regarding whether the principles under the *O.J.C Case No.9449 of 1993 of the Hon'ble High Court in Sarat Chandra Sahoo's case* had been followed in the lease of the land in the Wasteland Lease Case No.618/ 1959-60.

4. Heard the petitioner in presence of the Additional Standing Counsel who had opposed on the ground that on the basis of order passed in the Wasteland lease case the scheduled land was recorded as ' Dakhal Swatwa Shunya' which indicates that what was given by the Government by lease was only permission to possess. A right to transfer was never available to the lessee. Therefore, transfer by the lessee through R.S.D was illegal.

5. The following issues are framed.

(1) Was the Government land leased out in 1970 with a clear stipulation that transfer was not possible under any circumstances?

(2) Was the scheduled land resumed by the Government through due process ?

(3) Did the Assistant Settlement Officer err in recording the land in favour of G.A Department?

(4) Did the lease character of the Government land change to Sthitiban Status ?

(5) Whether the kisam of the suit hal plot has been rightly recorded as kisam 'Jungle' in the hal ROR ?

6. It is seen from the documents filed by the petitioner that on the basis of the Wasteland Lease Case No.618/1959-60 the leased scheduled land was recorded in favour of Nibas Nahak, S/o- Ghana Nahak as 'Dakhal Swatwa Shunya'. It is relevant that as per Section 6-A of the OLR Act, 1060 the transfer by a raiyat of any land settled with him for agriculture purposes under a permanent lease from Government shall be void, if it is made within a period of ten years from the date of such settlement without obtaining the prior permission of the Revenue Officer. Even though the word 'Settlement' is used in the application form for lease, it must be noted that what it implies is 'Settlement under lease', because it is a conditional transfer. Leased land of this nature cannot be considered to be 'permanent lease'. Therefore, there is no evidence to indicate that Section 6-A of OLR Act is attracted in the instant lease matter. It is also noted that permission U/s.22(1)(4) of OLR Act governs only alienation

of land belonging to an S.T or S.C person. It does not address the issue of terms of a conditional lease granted as per approved lease principles or under O.G.L.S Act. Thus, it is clear that there is no automatic provision in the law, by which a lease-hold land becomes free hold on its own, after ten years, without any fresh consideration. Government can bring in a policy by which such transferable right can consciously be given to a lessee against some consideration of payment of premium/fee at notified rates to permit such change of classification from ' Dakhal Swatwa Sunya' to 'freehold' i.e. with alienable rights. In the instant case, the transfer happened much later than ten years. But, there is nothing on record to indicate that the lessee had sought the permission of the Government for transfer or that any competent authority in the Government had permitted such sale.

7. In this context, it is necessary to note that Hon'ble High Court has laid down certain principles governing resumption of leased land in 2005 (II) OLR 77, Smt Sandhyarani Rout and others vs State of Odisha and others. In the lsaid judgement, it was mentioned that ***the authorised office can resume any land settled by him if he has reasons to believe that the person with whom the land was settled has used it for any purpose other than that for which it was settled. Even though there is no specific provision in Section 3-B of the Act to give opportunity of hearing to the present owner of the land in a proceeding under the said Section lfor resumption of lease, but according to us, any person who may be directly affected by any order passed by the authority under the above section 3-B has a right to be heard before final decision of resumption of the lease is taken by the authority.***

8. In this context, it is relevant to note that Survey and Settlement process as per 1958 Act does not create any new rights or extinguish any existing rights. Therefore, notwithstanding the contents of Section 23 of the Odisha Government booklet titled "rayati jami record kariba pranali o satwasatwa niyamabali" published in 1990, such Government lease land in the undivided districts of Cuttack, Puri and Balasore cannot automatically be recorded by the settlement authorities as 'sthitiban', considering the fact that in the instant case, the scheduled land was Government land that was consciously leased out in Wasteland Lease Case No.618/1959-60 and thus the principles of the said booklet, which deals with historical relationship between tenants, land lords and different kinds of intermediaries would not apply to the instant case.

9. In view of the above, the first question as framed in Para 6 above is answered in the negative. It is open for the Government to bring lout a scheme whereby such lease hold land can be changed to freehold, by appropriate collection of revenue by way of fee as per rates to be notified. The second question is answered in the negative, as there is no report from the lower revenue field officials regarding resumption of the said leasehold land. The A.D.M, Bhubaneswar in his report vide letter No.2349/Judl., dtd. 21.08.2019 has submitted that on verification of registers

and records available in his office it is found that there is no revision case instituted in respect of W.L. Case No.618/1959-60. The third question is answered in the affirmative, as the settlement authorities lack the jurisdiction to disregard a valid lease, in the absence of record to indicate cancellation of the lease or resumption by the Government. The fourth question is answered in the negative, as nowhere did the revision petitioner produce any documentary proof to indicate permission by the competent authority to change the classification to "Sthitiban". The fifth question is answered in the negative, based on the report furnished by the D.F.O, Chandaka Wildlife Division, Bhubaneswar who vide his Letter No.6643/3F, dtd. 01.11.2018 has submitted that the suit Hal Plot No.7419 under Khata No.2876 of Mouza-Andharua with its kisam recorded as 'Bada Jungle' in the hal settlement ROR is not coming within Chandaka-Dampara Wildlife Sanctuary or its Eco-Sensitive Zone. He has further submitted that the suit land is not coming under District Level Committee report filed before the Hon'ble Supreme Court of India as regards to forest land in connection with extent of forest land in Writ Petition (Civil) No.202/95 in the matter between T.N. Godavarman Thirumulkalpad –vrs- Union of India & others. It is also reported that there is no natural vegetation and presence of wild-life over the land at present .

10. In view of the foregoing analysis, the revision is partially allowed. Tahasildar, Bhubaneswar is directed to correct the Record of Rights by recording the suit Hal Plot No.7419, Area Ac.0.070 dec. in favour of the present revision petitioner Buddhadeb Dutta, S/o- Chittaranjan Dutta with its kisam as 'Baje Fasal-III' as per the sabik kisam recorded earlier in favour of the original lessee instead of kisam 'Jungle' (Bada Jungle) by deducting the same from Hal Khata No.2876 as indicated in the field report of the Tahasildar. However, it cannot be with 'sthitiban' status. It has to be as per the lease-hold status i.e. non-transferable and non-heritable, till the Government brings out any scheme to address such intending applicants through appropriate notification.

11. Send copy of the order to the Tahasildar, Bhubaneswar for necessary compliance.

12. Original/Certified copies of documents filed be returned to the petitioner by keeping a set of photocopies of the same in the case record.

13. Copy of this Order be forwarded to Principal Secretary, Revenue and Disaster Management Department for appropriate action.

Pronounced the order in the open court today i.e. on the 14th day of December, 2021.

Sd /-
Member,
Board of Revenue, Odisha, Cuttack

CONSOLIDATION REVISION PETITION No. 08 of 2015

(Under Section-37(1) of the OCH & PFL Act, 1972)

Decided on 23.06.2021

(Order by Shri Madhu Sudan Padhi, I.A.S,
Commissioner, Land Records & Settlement, Odisha, Cuttack)

Sk. Shoeib Ali … **Petitioner**

-Versus-

Sri Brundaban Jew Thakur Bije Raghunathpur, Marfat Adhikari Baman Charan Dash (Deceased) & others … **Opp. Parties**

Counsel for Petitioners - Mr. B. Mohapatra, Advocate & Associates
Counsel for O.P. No. 2,3, & 4 - Mr.R.K. Mohhapatra, Advocate & Associates
Counsel for O.P. No. 5 - Mr.B.K. Parida, Addl. Standing Counsel

D E C I S I O N

In Revision Petition No.08/2015 filed U/s 37(1) of the OCH & PFL Act, 1972 (shortly called as the Act) relating to Mouza- Raghunathpur, P.S. Binjharpur, Dist. Jajpur, the petitioner, Sk. Shoeib Ali has prayed for deleting the name of the Opposite Parties from Chaka Khata No.248 consisting of Chaka No.1 (Chaka Plot No.9 and Non-Consolidation Plot No.10) for an Area of Ac.0.48 dec corresponding to Sabik Khata No.7, Plot No.125 on the basis of of three RSD Nos. 861, 862 and 863 respectively.

2. The Consolidation Revision Case was filed within the stipulated period.

3. The Addl. Standing Counsel for Opp. Party No.5 is present and the learned Advocate for the other Opp. Parties is present and heard. The learned Counsel for the petitioners is absent on repeated call. Hence, they are set ex-parte.

4. A report dated 13.12.2018 submitted by Inspector of Endowments, Ramesh Kumar Singh on behalf of Addl. Asst. Commissioner of Endowments, Cuttack and report of the Addl. Sub-Collector, Consolidation dated 26.06.2020 has been received.

5. Gone through the contention of the petition, para-wise report of Inspector of Endowments(on behalf of Addl. Asst. Commissioner of Endowments, Cuttack), report of the Addl. Sub-Collector, Consolidation dated 26.06.2020, the documents filed by both the Petitioner and the Opp. Parties and the written notes of argument submitted by both the parties.

On perusal of the report of the Addl. Sub-Collector, Consolidation vide letter No.285 dated 26.06.2020 it is seen that there is a mis-match in the schedule of land mentioned in the plaint copy and Sabik records.

On scrutiny of the RSD dated 18.03.1969, it is seen that the same was executed by Sri Brundaban Jew Thakur Bije Nijgaon Marfat Adhikari Kanhu Charan Dash in favour of one Iilahi Bux for an area of Ac.0.47 dec from Sabik Plot No.125 under Sabik Khata No.7, subsequently, on perusal of the Deed No.4680 dated 02.05.1972 it is evident that Iilahi Baux had Transacted the same Area of Ac.0.48 dec from Sabik plot No.125 under Sabik Khata No.7 under Stithiban status in favour of Sri Brundaban Jew Thakur Bije Nijgaon Marfat Adhikari Baban Charan Dash S/o Adhikari Kanhu Charan Dash.

Perused the RSD Nos. 861, 862, 863 submitted by the Petitioner and the Opp. Parties. It is seen that all the three RSDs have been executed by Sri Baban Charan Dash for transaction of an Area of Ac.0.07 dec, Ac.0.20 dec and Ac.0.20 dec (totaling to an Area of Ac.0.47 decs) respectively for Sabik Plot No.125 under Sabik Khata No.7.

On perusal of the report submitted by the Inspector of Endowments, on behalf of Addl. Asst. Commissioner of Endowments, Cuttack, it is ascertained that Deity Sri Brundaban Jew Thakur is a Public religious institution bearing index No. 53 BC/101C and being a Public Deity, the Odisha Hindu Religious Endowment Act is applicable. The report further submits that in case of public religious institution before alienating any property the permission U/S-19 of OHRE Act has to be obtained from the Commissioner of Endowments and in the instant case, such permission has neither been obtained nor same has been submitted. Further, the report contends that the RSDs executed by the trustee are illegal in the eye of law as the Deity is a perpetual minor whose land should be safeguarded in his own interest and that the present RoR should not be interfered with.

6. It is also pertinent to mention here that the provisions of Section-19 of the Odisha Hindu Religious Endowment Act,1939 provide that Lands belonging to the Deity cannot be subjected to alienation in violation of statutory requirement- Deity's property can be transferred by sale, exchange, mortgage etc with prior permission of the Endowment Commissioner only when such transfer is necessary or beneficial to the institution. Before transferring the Deity's property by above means, either of the two conditions is to be satisfied i.e (i) there must be necessity to sell the Deity's property, or (ii) such sale must be beneficial to the deity: as per ratio of Hon'ble High Court of Odisha in case of **Niranjan Mekap & Ors.v. State of Orissa & Ors; 2015(II) OLR 311**.

The written notes of argument submitted by the O.P contend that the transfer made by Baban Charan Dash was neither genuine nor executed for the benefit of the Deity nor was such transfer made with the prior permission of the Endowment Commissioner.

7. It is also noteworthy to mention here that in the instant case, the Opp. Parties have submitted an Order dated 23.12.83 of the Commissioner of Endowments wherein permission for alienation of Ac.4.75 dec of land belonging to Sri Brundaban Chandra Thakur has been granted. It is, however revealed, that the permission

granted is for the schedule of land which comes under Sabik Khata No.16 and not under Sabik Khata No.7 (the Sabik corresponding Khata as contended in the plaint). On perusal of the rent receipts by the Opp.Parties it is also ascertained that the petitioner has been paying rent till date.

Subsequently, it is seen that the Khata No.248 was published in the year 21.04.1999 which stood recorded in the name of Sri Brundaban Jew Thakur Bije Nijgaon Marfat Adhikari Baban Charan Dash S/o Adhikari Kanhu Charan Dash and Gourahari Dash S/o MadhuSudan Dash. The Second part Land Register submitted by the Opp.Parties substantiates the same.

Hence, although this Court is not competent to adjudicate on the voidability of the the executed RSDs, it is prima-facie evident from the reports submitted by the Inspector of Endowments, on behalf of Addl. Asst. Commissioner of Endowments, Cuttack, that since the suit land belongs to the Deity who is a perpetual minor, the interests of the Deity land cannot be compromised with. Moreover, in the absence of permission of the Endowment Commissioner regarding alienation of the Deity land, the prayer of the Petitioner cannot be entertained. Therefore, it is concluded that the RoR No.248 remain recorded in the names of Sri Brundaban Jew Thakur Bije Nijgaon Marfat Adhikari Baban Charan Dash S/o Adhikari Kanhu Charan Dash and Gourahari Dash S/o MadhuSudan Dash.

8. Resultantly, the Revision Petition is dismissed.

Pronounced the order in the open Court to-day, the 23rd day of June, 2021.

Send the copy of this order to the Addl. Sub-Collector-cum-C.O, Jajpur and Tahasildar, Binjharpur for the needful.

Sd/-
Commissioner,
Land Records & Settlement, Odisha, Cuttack.

CONSOLIDATION REVISION PETITION No. 470 of 2003

(Under Section-36 of the OCH & PFL Act, 1972)

Decided on 27.12.2021

(Order by Shri Madhu Sudan Padhi, I.A.S,
Commissioner, Land Records & Settlement, Odisha, Cuttack)

Sanatan Mishra & others … **Petitioners**

-Versus-

SLaxmidhar Bal & others … **Opp. Parties**

Counsel for Petitioners - Mr. P. K. Routray, Advocate & Associates
Counsel for O.P. No. 1 - Mr. C. Ananda Rao, Advocate & Associates
Counsel for O.P. No. 2 - Mr.B.K. Parida, Addl. Standing Counsel

D E C I S I O N

In obedience to order dated 21.07.2016 of Hon'ble High Court in W.P. (C) No.11154 of 2016, the Revision Case Nos. 470/2003 and 476/2003 respectively, are being taken up for hearing on merit.

In Consolidation Revision Petition No.470/03 and 476/03 filed U/s 36 of the O. C. H. & P.F.L. Act, 1972 (shortly called as the Act) relating to village-Chheliapada, P.S Dharmasala, Dist. Jajpur, the Petitioners, Sanatan Mishra and others have prayed for setting aside the impugned order of the Deputy Director and for exclusive recording of the land in the name of the Petitioners.

Both the above Consolidation Revision Cases are clubbed together for analogous hearing and for passing a common order since the nature of claim in both the above cases are on the basis of the same Sabik records, entitlement and genealogy and pertains to appeal against the same order passed by the Deputy Director.

2. The learned Counsel for the petitioner and learned Addl. Standing Counsel for the Opp. Party No.2 (State) are present and heard. Learned Counsel for Opp. Party No.1(a) to 1(e) is absent on the dates of hearing on repeated calls despite receipt of notice. Hence, the order is set ex-parte.

3. Gone through the contention of the petition and documents on record and the written notes of argument filed by the Counsel on behalf of the Opp. Party and the written notes of argument submitted by the Counsel for the Petitioner.

4. On perusal of the order dated 30.04.1993 passed in Appeal Case No.17/92 and 18/92 in the Court of Deputy Director, Consolidation of Holdings, Range-I,Cuttack filed against the order of the C.O dated 24.02.1992, it was ascertained that the suit Hal Plot No. 193 Ac.1.42 and Hal Plot No. 188/481 Ac.0.02 dec which corresponds to Sabik Plot No. 88 under Sabik Khata No.9 (in 1911 settlement) stood recorded in the names of Gopi Mohanty, Dinabandhu Mohanty, S/o Kelu Charan Mohanty, Chami Bewa W/o Paramananda Mohanty with note of Sikkim possession in the name of Dai Bal under Khata No. 46. Further,the successors-in-interest (of the Sabik recorded tenants) have sold the suit land to the Appellants (Sanatan Mishra & others) vide R.S.D No. 193 dated 12.01.1940 and R.S.D.No.4076 dated 02.11.1948.

It is also ascertained that Appellants (namely Sanatan Mishra & others) in the Appeal case No.17/92 and 18/92 filed before the Deputy Director, Consolidation of Holdings, Range-1, Cuttack, have prayed to partition the suit land among themselves and enhance the L.R area from Ac.1.44 to Ac.1.54 dec as per Sabik Area. On the other hand the Respondent (Nrusingha Bal) had claimed vide Objection case No.19/91 to record him as Sikkim tenant against the suit land as he is the successor of the Sabik Sikkim tenant Dai Bala.

The following findings have been derived from the order passed by the Learned Deputy Director, Consolidation of Holdings, Range-I, Cuttack.

A. The Counsel for the Appellants (i.e Sanatan Mishra and others) had argued that the Sabik Sikkim tenant of the suit land, Dai Bal, died in the year 1920 and the suit land automatically reverted back to the Landlord, (Gopi Mohanty and others), and , after the death of the Land-lord, their successor-in-interest sold the land to Krushna Ch. Mishra vide RSD No.193 dtd.12.01.1940 and Dinabandhu Mishra vide RSD No.4076 dated 02.11.1946. The aforesaid RSDs and the rent receipts of the suit property since purchase were also produced. Also, the said property was mutated in their favour according to purchase and they have been paying rent from the date of purchase.

B. That, during the consolidation Operation the learned Counsel for the Appellant further argued that their being no custom regarding heritability of Sikkim tenancy the same would not devolve on the successors of the Sikkim tenant and cited the decision reported in 1973-I, CWR, page 878. He also stated that, the under-raiyats (Sikkim raiyats) is neither heritable nor transferable referring to the decision reported in 1972-II CWR page 15 and also cited the section 4(5) of the OLR Act and accordingly argued to record 2/3rd interest of the suit property in favour of the appellant No.1 & 2 (i.e Sanatan Mishra and Pitabasha Mishra) and 1/3rd interest of the suit property in favour of Appellant No.3 (i.e Dinabandhu Mishra).

C. The Counsel for the Respondent, on the other hand, argued that they have been ignored to be recorded as Sikkim tenant of the suit land for which they (the Respondent Nrusingha Bal) had filed objection case No. 19/91 to be recorded as Sikkim tenant against the suit land.

D. The Counsel for the Respondent also argued that the abolition of Sikkim Jagirdar right can be adjudicated by the Revenue Authorities under the OLR Act and Consolidation Authorities have been vested with the powers to reflect such right in the ROR following the Sabik ROR. Further, the Sikkim Jagirdar right cannot be transferable, and accordingly the transaction made by the Sabik recorded tenant cannot be taken into consideration. The Sikkim Jagirdar status as recorded in the Sabik ROR came under the definition of Intermediary provided in section 8(2) and (3) of OEA Act and automatically should have been recorded in the name of Respondent No.1.

On the basis of the arguments submitted above, the Deputy Director conclusively held:

I. That, the Sabik recorded tenants have transferred the right, title and interest vide the aforesaid RSDs in favour of the appellants and hence the transferees have been rightly recorded as Malik of the suit property. But since the suit land was recorded in Sabik Sikkim Khata No.46 in favour of Dai Bal, the predecessor of the present Respondents, as

Sikkim tenant, the L.R record should have been prepared with the Sikkim note of possession in the name of the respondent and also the Sikkim Khata under the Malik Khata should have been prepared **since the Sikkim status is inheritable**. But this has not been done during the preparation of L.R.

II. That, the learned lower court allowing the claim of the objection case No. 19/91 has regularized the said mistake which had occurred during L.R stage. Thus, the lower court has rightly ordered to record the suit land in favour of the respondents as Sikkim tenant under the recorded tenants/ transferees of the deeds referred to above.

III. As regards the claim of partition of the suit land between the recorded tenants/ appellants, the partition cannot be made as the suit land was recorded in Sikkim Khata No.46 and the same cannot be partitioned between Malik raiyats. The claim for enhancement of area of the suit land from Ac.1.44 dec to Ac.1.54 dec also merits no consideration as the parties are in possession over the area in the field recorded in the L.R record as per findings of the lower court.

With this, the Deputy Director, Consolidation of Holdings, Range-1, Cuttack also disallowed the appeal of the Appellants.

5. On perusal of the order dated 24.02.1992 passed by the Consolidation Officer, in Objection Case No. 21/91 tagged with Objection Case No.19/91 the following findings have been ascertained:

A. That the Appellants namely (Sanatan Mishra, Pitambar Mishra S/o Krushna Chandra Mishra, Dinabandhu Mishra S/o Bhagabat Mishra) had claimed for **partition** of L.R. Plot No. 193 and 188/481 (under Hal Khata No.78) and **enhancement of area** from Ac. 1.44dec to Ac.1.54 dec.

B. That, in the case No. 19/91, the objector Nrushingha Bal, S/o Dhadi Bal had claimed for preparation of Sikkim Khata in his name against Hal Plot Nos.193 and 188/481.

C. That, the Amin had conducted enquiry and reported that the objectors/ Appellants in the Objection Case No.21/91 i.e. Sanatana Mishra and Others were in possession of Ac.1.44 dec in both the plots, hence, no enhancement in area was required.

D. That, regarding partition of L.R.Plot it has been stated that against the Sabik Khata recorded in the names of Gopi Mohanty, Dinabandhu Mohanty S/o Kalei Mohanty, Ajit Singh, Chanda Bewa W/o Paramananda Mohanty, there was a Sikkim Khata No.46 in the name of Dai Bal S/O Kelu Bal. Also, the Jamabandi No.12 and 13 was

opened in the name of Krushna Ch. Mishra S/o Bhagabat Mishra for Ac.1.02.7 links and Jamabandi No. 14 was opened in the name of Dinabandhu Mishra S/o Bhagabat Mishra for Ac.0.51.3 links. During the L.R stage, the L.R plots have been recorded in the name of Sanatan Mishra and others, over looking the Sikkim rights of Dai Bal.

Under such circumstances, the order passed by the Consolidation Officer held that :-

(i) Where there are Sikkim tenants against the suit plots no claim for partition by the Malik Raiyat can be entertained.

(ii) The objector (Sanatana Mishra) and others could not show how the Sikkim right has been abolished from the disputed plots.

(iii) Only the Revenue Officer has jurisdiction to abolish the Sikkim and not the Consolidation Authorities.

Hence, while the claim of objector in case No. 19/91 was allowed as genuine and it was held its Sikkim right will continue (no Malik raiyats can partition the disputed plots), the claim of the objectors in case No.21/91 was disallowed and the claim of NrusinghaBal in case No.19/91 was allowed.

6. On perusal of the Amin report dtd.22.01.1992, it is ascertained that two different Jamabandis for Sabik Khata No.9 and 9/2 have been opened in favour of Krushna Chandra Mishra and Dinabandhu Mishra for and both of them are possessing the same jointly.

Also perused the RSD No.193 dtd.12.01.1940 wherein Panu Mohanty S/o Gopi Mohanty and Shyam Sundar Mohanty S/o Dinabandhu Mohanty have transacted suit property of an Area of Ac.1.02 dec 7 kadi from Sabik Plot No.88 under Sabik Khata No.9 to Vendee Krushna Chandra Mishra. Further, it is also seen that vide RSD No.4076 dtd.02.11.1948 Vendor Chaitanya Das S/o Gopi Das has transacted the suit land to Dinabandhu Mishra. (On going through the recital of the RSD it is revealed that Sabik Recorded Tenant Chanda Bewa had gifted suit land consisting of Ac.0.51 dec 3 kadi from Sabik Plot No.88 under Sabik Khata No.9/2 to Chaitanya Das and subsequently Chaitanya Das has sold the same to Dinabandhu Mishra).

Also perused the rent receipts for the years 1966-67, 1967-68, 1968-69, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79, 1980-81, 1982-83, 1983-84, 1984-85, 1986-87, 1987-88 which show that the purchasers of the suit land have been paying rent.

7. Conclusively, on the perusal of the Orders passed by the Learned Deputy Director and Consolidation Officer above, the following findings have been ascertained:

It is seen that the Respondent has relied on the provisions of Section 8(2) and (3) of the OEA Act. The provisions of Section 8(2) and (3)lays down that

> Section-8(2)"*any person who immediately before the date of coming into force of the Odisha Estates Abolition (Amendment) Act 13 of 1986 held land under the Government for rendering service as a village servant by whatever name called shall from the date of coming into force of the said Act be discharged from the conditions of such service and the land shall be settled with him with occupancy right in such rent as may be determined by the Collector in the prescribed manner".*
>
> Section 8(3) "*Any person who immediately before the date of vesting held land under an Intermediary on favourable terms for personal service rendered by him to such intermediary shall, from the date of vesting be discharged from the conditions of such service and the land may be settled with him in such manner and under such terms and conditions as may be prescribed"*.

On scrutiny of the above provisions it is evident that Section-8(2) and (3) of the OEA Act, 1951 are not applicable to the instant case. The aforementioned provisions are applicable to the Ex-intermediary lands wherein after the abolition of estate, the land held by the Ex-Intermediary vests in the State free of all encumbrances and such Intermediary shall cease to have any interest in such estate other than the interests expressly saved by or under the provisions of the OEA Act.

Hence, the provisions of the aforesaid section are not relevant to this instant case as the suit land does not belong to the Ex-intermediary moreover, the Sikkim Tenants are the "**under-raiyats**" as defined within the ambit of **Section-4** of the Odisha Tenancy Act, 1913.*"The under-raiyat is a tenant holding whether immediately or mediately under raiyat- The rights and liabilities of under-raiyats are enumerated in Sections 56 and 57 of the Act which constitute the entire chapter VIII- Statutorily under-raiyati rights are not heritable and transferable and the Act doesn't contain any specific provision conferring such rights as in the case of occupancy rights*" : **94 (2002) CLT 792.**

Also, while the Order passed by the Consolidation Officer holds that where there are Sikkim tenants against the suit plots no claim for partition by the Malik Raiyat can be entertained. The said finding would have been justified as long as the Sabik Recorded tenant was the owner of the Suit property. Once the suit property has been alienated and transferred vide Registered Sale Deed, the said proposition is no longer credible. Further, the Learned Deputy Director, on the other hand has held that the Sikkim land is inheritable without delving into the details of the Amendment made thereto.

The Petitioner has relied on the citations wherein the Sikkim status is neither heritable nor transferable. The same can be derived from the the provisions of Section 4(1)(i) of OLR Act, 1960 which provide that,

> "*...subject to the provisions of Sub-Sections (5) to (8) persons who are in personal cultivation of any land and recorded as sub-tenants or under raiyats in respect of such land in the record of rights under any law in force in any part of the State and their successors-in-interest*".

Herein, it is ascertained that as per the amendment made in **Orissa Act 29 of 1976** the words "and their successors-in-interest" shall be and shall be deemed always to have been added at the end. It is clear that prior to Odisha Act No.29 of 1976 the word "***successors-in-interest***" was not there to the existing provisions of Section 4 of the Odisha Land Reforms Act, 1960.

Further, the amendment to Section 4(1)(h), states, insertion of the words "successors-in-interest" by Act 29 of 1976- whether prospective or retrospective. Held, the amendment is prospective **57(1984) CLT 442**.

It is now convenient to lean on the provisions of the Section 4 (5) of the OLR Act, 1960 as relied by the Petitioner wherein, it has been categorically stated as follows:-

> *"Section-4 (5) The Revenue Officer, on an application in that behalf in the prescribed form and manner [by the sub-tenant or under Raiyat or the successor-in-interest], as the case may be, referred to in Clause(i) of Sub-section (1) made not later than ninety days from the commencement of this Act or within such further period not exceeding thirty days as such officer in his discretion allows, may, after such enquiry as may be necessary, by order declare such sub-tenant or under raiyats[or successor-in-interest to be a raiyats in respect of the land referred to in the said clause with effect from the beginning of the next following date of the order]:*
>
> *Provided that any such sub-tenant or under-raiyat who has failed to make an application within the said period , may make such application within ninety days from the date of commencement of the Odisha Land Reforms(Amendment) Act,1966(Act 8 of 1967):*
>
> *Provided further that any such sub-tenant or under-raiyat who has failed to make such application within any of the periods specified in this sub-section may make an application within a period of two years from the commencement of Odisha Land Reforms(Amendment) Act,1973 (President's Act 17 of 1973):*
>
> *Provided further that any such application made after the expiry of the period specified in this sub-section and before the aforesaid date shall, for all purposes , be treated as an application filed within the period of limitation:*

Provided further that an application under this sub-section may be made-

(a) in the case of sub-tenants and under-raiyat who have been recorded in the record-of-rights on or after the 1st day of October, 1965 within two years from the date of commencement of the Odisha land reforms (Second Amendment) Act, 1975 or the date of final publication of the record of the record-of-rights, whichever is later : and

(b) in the case of the successor-in-interest of any recorded sub-tenant or recorded under-raiyat, within two years from the date of commencement of the said Act or the date of the sub-tenant or under-raiyat , whichever is later."

Thus, the aforesaid provision lays down that an under-raiyat needs to apply to the Revenue Officer in order to be declared as an under-raiyat and retain his status as such. In the instant case, it is seen that no such application has been made by the Sikkim tenant or his successors thereafter to reclaim their status as that of Sikkim raiyat, to the Revenue officer at any point of time.

It is also evident from the aforesaid provisions that successors-in-interest were not included in the ambit of Sikkim tenant previously. The same can also be derived from the following case law:

" *the Sikkim tenant or his successors could not acquire the right of occupancy over the land prior to the amendment in Odisha Act X of 1946 - The successors of the Sabik recorded Sikkim tenant could not acquire the right of the Sikkim tenancy over the land as the Sikkim right was not heritable during the year": 2002(I) OLR(BOR) 31*

As regards the heritability of the Sikkim Tenant, it has been clearly held that "Sikkim tenancy is not heritable, when he dies, the possession of son is not that of Sikkim Tenant **: Champabati Bewa v Kanhu Mallick: Vol 33(1991) OJD 154(Civil).** Also, it has been held that "Sikkim Tenant is an under-raiyat. Sikkim Tenancy is neither heritable nor transferable. Successors of the Tenant cannot claim title and bring any suit for eviction ": Relied on Natabar Pandey V. Sri Pareswar Dev & others: OJC. No.4349 of 2002 disposed on 30.10.2002. Contrary view not accepted: **SubalBaliarsingh V. ChanchalaBewa : 2004(I) CLR 215:2003(Supp) OLR(NOC)919**.

It is also evident that the Opp. Parties have not challenged the fact that the Sikkim tenant Dai Bal had died in the year 1920. Nor, has the Respondent raised any objection while the RSDs were executed in the year 1940 and 1948 respectively. They have filed an Objection case bearing No.19/91 in the year 1991, which is after a lapse of about 50 years from the time when the first RSD was executed. The

Petitioners on the other hand has been a bonafide purchaser, the Jamabandi has also been opened in their favour, they have been paying rent continuously and that Petitioners are also in possession over the suit land. Had the Sikkim tenancy been heritable and transferable from the early times , the aforesaid case laws would not have existed in the first place. Moreover, it is also ascertained that the heritability clause has been introduced vide the word "successor-in-interest" vide an Amendment through the **Orissa Act 29 of 1976.** Hence, it can safely be assumed that prior to such an amendment the Sikkim tenancy was not heritable. Also, the reliance of the Respondent on Section 8(2) and 8(3) of the OEA Act is rendered infructuous and unrelated to the case matter as this does not pertain to an Ex-Intermediary land.

Also, it is well ascertained that if the RSDs have been duly executed, it establishes that the Petitioners are vested with the Right, title and Interest to possess the suit land **free from all encumbrances**. If the execution of RSD is held to be credible, it is deemed that Sikkim tenancy is no longer valid and the same stands voluntarily forfeited. Moreover, with the death of the actual tenant and with no custom regarding heritability, the suit land should have vested with the purchasers free from all encumbrances. However, the Deputy Director has inaccurately comprehended all these aspects and passed his orders.

As regards enhancement of area, it is seen that the Deputy Director had observed that the purchasers of the suit land were in possession of an area of Ac.1.44 dec. and hence the area as per their possession may be recorded accordingly. Regarding partition, the petitioners may approach appropriate forum under Section 19(1)(c) of OLR Act, 1960.

8. Thus, it is evident that the orders passed by the learned Consolidation Officer and Deputy Director, Range -1 are inappropriately comprehended and suffer from errors of improper application of law. The orders of the Deputy Director, Consolidation of Holdings, Range-1, Cuttack are hereby set aside and the prayer of the petitioners is accordingly allowed partially on the aforementioned grounds as per the provisions of law.

9. Resultantly, the Consolidation Revision Case is partially allowed.

Pronounced the order in the open Court to-day, the 22nd day of December, 2021.

Send copy of the order to Deputy Director, Consolidation of Holdings, Range-I, Cuttack / Addl. Sub-Collector-cum-Consolidation Officer, Dharmasala / Tahasildar, Dharmasala.

Sd/-
Commissioner,
Land Records & Settlement, Odisha, Cuttack.

Case No. 536 of 2017

(Under Section 37(2) of the O.C.H & P.F.L Act, 1972)

Decided on 03.11.2020

(Order by Shri Sashadhar Nayak, O.A.S(S.S.),
Director, Consolidation, Odisha, Cuttack)

Bikasha Chandra Sinha and Others..... Petitioners.
-Versus-
State of Odisha and others …… Opp. Parties

1. Bereft of its unnecessary details, the factual matrix of the case in a nutshell is that this Revision case No.536/2017 has been instituted on the basis of the petition filed by Bikasha Chandra Sinha and others U/s 37(2) of O.C.H. PFL. Act for recording LR Khata no.520, Containing 47 Plots for an area of 170.20 dec in the Mouza-Sipasurubali under Puri district in the name of the petitioners.

2. The Advocate for the petitioner pleaded that the suit land corresponded to 1928 settlement as follows .

SCHEDULE

Mouza	**Khata No.**	**Plot.**	**Area**
Sipasurubal	70	159	Ac. 38.74.
		85	Ac.131.46
		Total-	**170.20 decimal**

The above khata was under Touzi number 269 as is evident from R.O.R of 1928.

3. The Advocate for the petitioners has further pleaded that the suit land corresponded to the M.S Khata No.23, 27, 37, 40, 48, 51, 60, 62,65, 2, 12, 102, 111, 117, 74, 88 appertaining to an area of 170.20 dec under different plots as noticed at "B" of the plaint Copy which further corresponded to L R khata no-520 under Consolidation .

4. It is pleaded by the Advocate for the petitioners that suit land corresponded to the Khata No. 70 under 1928 settlement, Containing the plot no.85 for an area of 202-72 decimal, in balikuda Kissam and plot no.159 for an area of 38.74 dec, in Puratan Patita Kissam . These two Plots under Khata No.70 of 1928 settlement were anabadi land and the suit land was recorded in pre sabik khata no-70 containing plot no-85 Ac.202.72 decimal and plot no-159 ac.38.74 decimal in the name of Zamindar M.C.Sihna,with S.K.Mahammad Asgar as Sub-Proprietor, under touzi no,269.

5. While the position was thus Rani Harshamukhi Dasi,the Executrix Eastate of late Raja M.C. Sinha, as plaintiff filed O.S. No.20/1928 in the Court of the Sub-

Judge, Cuttack impleading intermediary Sk. Mohamood Asgar, as defendant No.1 and Secretary of State for India in Council as Defendant No.2 inter alia claiming the Schedule lands in her favour.

6. In the aforesaid suit, the defendant No.2 was set-exparte and the suit was decreed on 16-1-1930 in favour of the plaintiff Rani Harsamukhi Dasi in terms of compromise between the plaintiff and defendant No.1 and the suit was dismissed against the defendant No.2. In the said suit it was ordered that the defendant No.2 would get his actual cost amounting to Rs.27/-2 annas which has already been paid by the plaintiff Rani Harshamukhi Dasi to defendant.

So on the basis of aforesaid Decree passed inO.S.No.20/1928, Rani Harshamukhi Dasi became the title holder of the pre - sabik plot No.159 A38.74 and Pre- sabik plot No.85 (Part)Ac 131.46 for total area of Ac.170.20 Dec under Pre- sabik Khata No.70 . The advocate for the petitioner has averred that due to O.S.NO-20/1928 filed in the court of Sub-Judge, Cuttack, indefeasible title has occurred to the petitioners for recording the scheduled property in the names of the petitioners in sthithiban status in different khata.But the suit land has been recorded in Government khata in consolidation under L.R.khata no-520,containing 47 plots such as: 695,692,691,686,685,683,677,675,664,663,674,673,672,671,669,670, 668,666,667,692,680,696,706,691,690,588,589,522,515, 589,503,504,507,508,511,514,516,517,558,559,560,561,513,511,584,550,549, Which are mentioned in Scheduled “C”of the plaint pertaining an area Ac.159.596 dec . So, on the basis of the above O.S. Case no-20/1928,the Advocate for the petitioner claims that the title of the land belongs to the petitioners as successors of Rani Harsamukhi Dashi . He has given the genealogy of Rani Harshamukhi Dashi in the plaint.

7. The Advocate for the petitioner has submitted the written notes of argument which is tagged to the Case record. The Addl. Standing-Counsel submitted a written statement that these are the Government land ;so the suit land cannot be recorded in the name of the petitioner. It has been rightly recorded in Government khata.

8. Decision in 1985(1) O.L.R page 464 has been cited by the Advocate for the petitioner , wherein the Hon’ble High court of Orissa has held that concluded judgments and decree of civil court could not be questioned by consolidation Authority. They shouldn’t interpret in a manner, so as to take away their intended effect.

9. So it has been argued that the petitioners being successors of late Rani Harsamukhi Dasi became exclusive owners over the suit scheduled properties and have acquired primafacie title coupled with possession for recording the suit schedule properties in the names of the petitioners in stitiban status**.**

10. Verified the documents. Also verified the report of the Addl.Sub-Collector Puri.In 1930 Settlement it was recorded in the name of Kumar Bimal Chandra Sinha, represented by Mrs.Harsamukhi Dasi and it was a Anabadi land.The kisam was

balikuda and Puratana Patita and it was not cultivable .So it was not deemed to be in possession by the petitioner,as intermediary .

11. Shaikh Mahamad Esgar was Madhya Satwadhikari .Before Independence zamindari prevailed in Odisha. Because of presence of zamindaries and intermediaries ,the tenant was not under direct contact of state. For bringing the raiyats with director control and contact the State ,the Zamindari was abolished in Odisha with passing of the O.E.A Act 1951 .This Act defined intermediary as follows."Intermediary' with reference to any estate means a proprietor, sub-proprietor, landlord, land holder, malguzar, thikadar, gaontia, tenure holder, under-tenure holder and includes an inamdar, a jagirdar, Zamindar,Illaquedar, Khorposhdar, Parganadar, Sarbarakar and Maufidar including the ruler of an Indian State merged with the State of Orissa and all other holders or owners of interest in land between the raiyat and the State".

12. Intermediary interest is defined as an estate or any rights or interest therein held or owned by or vested in an intermediary.

'Significantly , as the above definitions would show,an 'intermediary and an intermediary interest covered all the holders or owners of interest in land between the state and the 'Raiyat' i.e the actual cultivator or tiller of the soil. This is in line with the object and purpose of the 1951 Act i.e. to establish a direct relationship between the filler and the state, and to abolish all intermediary interests, by whatever name called.

13. Raiyat is the actual tiller of or the soil and is defined in section 2(n) as Raiyat means any person holding the land for the purpose of cultivation and who has acquired the right of occupancy according to the tenancy law or rules for the time being in force in that area or in the absence of such law or rules, the custom prevalent in that area.

14. Section 3 of the act empowers the state to declare, by notification, that the estate specified in the notification has passed to and become vested in the state free from all encumbrance .In similarvein, Section 3A empowers the state to declare by notification that the intermediary interests of all intermediaries or a class of intermediaries in the whole or part of the estate have passed to and become vested in the state free from all encumbrances.

15. Upon a notification being issued under the provisions of section 3,3A or 4 of the Act, the entire estate vests in the State free from encumbrances and the intermediary ceases to have any interest in such estate other than the interest expressly saved under the Act.

16. The section 5 of the Orissa Estate Abolition Act ,1951 stated that "Notwithstanding anything contained in any other law for the time being in force or in any contract, on the publication of the notification under sub-section (1) of Section 3, xxxxxxxxxxxxxxxxxxxxxxxxxx

(a) Subject to the subsequent provisions of this Chapter the entire estate including all communal lands and porambokes, other non-raiyati lands, waste lands, trees, orchards, pasture lands, forests, mines and minerals (whether discovered or undiscovered, or whether being worked or not, inclusive of rights in respect of any lease of mines and minerals) quarries, rivers and streams, tanks and other irrigation works, water channels,fisheries, ferries, hats and bazaars and buildings or structures together with the land on which they stand shall vest absolutely in the State Government free from all encumbrances and such Intermediary shall cease to have any interest in such estate other than the interest expressly saved by or under the provisions of this Act:

17. Further by Revenue Department Notification number 13699-EA-1-ND-1/ 74/R published in Extraordinary Gazette No-371 dated 18.03.1974,the Government of Orissa notified that the intermediary interest of all intermediaries in respect of all estates other than those which have vested in the state have passed to and become vested in the state free from all encumbrances . Additional Standing counsel has produced the Xerox copy of the O.J.C. no.191/1956 between Kumar Bimal Chandra Sihna and others Vrs. State of Odisha wherein it has been mentioned that the Touzi no.269 was vested to state under section 3 of O.E.A. Act on 23rd August ,1953 .If name of any intermediary was left in notification, it is deemed to have been completely vested to Government w.e.f.18.03.1974 .

18. However, section 6(a) and section 7(a) of O.E.A Act made some exemption for intermediaries / Zamindaris / Sub-Proprietors . U/S-6(a)of O.E.A. Act, the land which was used for homestead or kutchery purpose by intermediary could be settled with him to fair and equitable rent. Similarly, U/S 7(1)of O.E.A Act, the land which is used by intermediary for agricultural purpose could be settled with him for fair and equitable rent. In terms of Sub-section (1)of section 7 only the land used for cultivation and horticultural purpose which were in khas possession of an intermediary on the date of such vesting would be conceived. The khas possession has been defined in section 2(1) which too means land used for agriculture and horticulture purposes. The possession of an intermediary of any land used for agricultural or horticulture purposes means possession of such intermediary by cultivating such land or carrying horticultural operation there on himself with his own stock or by his own servants or by hired labour or by hired stock.

19. Honble High court in case between Odisha Vrs .Nityanand Satpathy reported in 96(2003)CLT 721 held that for the purpose of talking benefit of the provision of Section 7(1)(a) of the Act, the intermediary must be in cultivating possession of the said land either by himself, with his own stock or by his own servants or by hired labour or with hired stock. Here the land was anabadi land and waste land, the land

being not used either for cultivation or for horticulture purpose on the date of vesting. So it did not attract the provisions of clause (a) of Sub-section (1) of Section 7 of the Act , for settlement of suit land with intermediary.

20. Thus nature and character of land being wasteland was not evidently in cultivation or possession of the intermediary .It is clear that the suit land was not under cultivation by the predecessor of the present petitioner ,who were recorded as intermediary. As per record of right published in 1928 ,the disputed land is classified as Anabadi land i.e uncultivated. The land is further defined in the record of rights as Balikuda .It was not in possession of any body. Obviously he being the intermediary under the Act, the rights and liabilities of such intermediary would stand extinguished under the Act. Anabadi and waste land, in terms of section 5 of the O.E.A. Act , was vested to Government free from all encumbrance . Section 5 provides for the consequences of the vesting of an estate in the state in terms whereof all the rights of the nature specified therein shall stand transferred to the state. As vesting takes place free from all encumbrances, the intermediaries ceased to have any rights there under. The land must be deemed to have vested in the state Government under section 5 of the Act, the intermediaries although might not have physically dispossessed, but they would be deemed to go out of possession and it was open to the state to exercise its right of possession.

21. The suit land was anabadi .The scope of settlement of anabadi land with ex-zamindar didn't exist. It has neither in his khas possession nor it was agricultural land. So the ex intermediary possibly has not preferred any clam of settlement before the proper forum i.e. O.E.A.Collector Puri. So the land in question is Government land .Recording this suit land in Government khata by consolidation authority is not improper. There is no illegality and irregularity in such recording by consolidation authority.

22. The petitioner of the advocate claims that in the suit 1928, the title of the predecessor of the petitioner was confirmed. In that suit, it was order against the sub-proprietor which existed in 1928. i.e Zamindars and Sub-proprietor etc, who were called intermediaries in land . They became extinct with passing of O.E.A Act and blanket notification .The state became the absolute owner of Anabadi land. The suit of 1928 shall have no application in the context of abolition of Zamidari and all intermediaries under O.E.A.Act,1951.In view of foregoing facts and circumstances ,the revision petition is devoid of merits and is dropped .The claim of petitioner is disallowed, being devoid of any merit.

Sd/-
Director,
Consolidation, Odisha, Cuttack

REVISION PETITION NO. 799 OF 2015

(Under Section 15(b) of the O.S. & S. Act, 1958)

Decided on 24.02.2021

(Order by Shri Nihar Ranjan Dash
Additional Commissioner,
Settlement and Consolidation, Cuttack)

Sushanta Kumar Das ..... Petitioner
-Versus-
Mirza Siraj Uddin & others ..... Opp. parties

Counsel for the Petitioner : Mr. S.K. Nayak
Counsel for the Opp. Parties : Absent

O R D E R

This case is taken up today.

The learned Counsel for the Petitioner and Addl. Standing Counsel for the State are present.

Heard the learned Counsel for the petitioner filed this Revision Petition U/s. 15(b) of the O.S. & S. Act, 1958 which was disposed of on 19.07.2017. The petitioner being aggrieved by the order dated 19.07.2017 had filed a writ petition before the Hon'ble High Court vide W.P. (c) No. 22375 of 2018 which was disposed of by the Hon'ble High Court vide order dated 30.01.2019 and remitted back to this court for de novo hearing. The delay was condoned considering the petition filed U/s. 5 of the limitation Act, 1963. Notice was issued and duly served to all the Opp. Parties by following due procedure and news paper publication. In respond the Opp. Party No.1 to 3 neither appeared nor filed any objection in three consecutive hearing dates.

The claim of the Petitioner is connected in this revision for correction of Hal Record-of-Right by recording the name of Petitioner along with the name of father of Opp. Party No.1 & 2 with 50% share OR 8 anna share each which appertains to Hal Khata No. 160 of Mouza – Cuttack Sahar, Unit No.22 Mirkamalpatna, P.S.- Mangalabag, Town/Dist.- Cuttack on basis of Sabik recorded tenant as recorded in the year 1931 Sabik Record-of-Right. The Hal R.O.R. has been finally published on 08.01.1999.

On verification of documents of Sabik ROR-159, Hal ROR-160, RSD No. 3591 dated. 06.09.1940, RSD No.2505 dated 29.05.1985, RSD No. 3400 dtd,03.08.1988, RSD No.1348 dated. 24.02.2006, certified copies of Settlement documents, Plot Index, a statement of 24 Nos. of Hal plot and a statement of 20

Nos. of RSD and submissions made by the learned counsel for the petitioner, it is reviled that the ancestor of petitioner, namely Kartik Das, S/o- Giridhari Das and another Bata Prusty, S/o Kesari Prusty had jointly owned a patch of land as right, title holder having 50% share each out of measuring an area Ac.2.073 dec. appertaining to Sabik Plot Nos.553, 554, 555, 556, 560, 561, and 562 under Sabik Khata No.159 in Sabik Mouza -Mirkamalpatna, Sabik P.S.-Cuttack, Thana No.205, Dist.-Cuttack. The learned Counsel for the Petitioner contended that both of those recorded Sabik tenants, for their legal necessity, jointly sold four numbers of Sabik Plots bearing Sabik Plot No. 553, 554, 555 and 556 measuring an area Ac.0.461 out of total area Ac.2.073 dec. in the year 1934 to one Natabar Mohanty whose successor having possession on the same. The rest three numbers of Sabik Plots bearing plot No.560, Plot No.561, and Plot No.562, measuring area Ac.1.612 dec. remained with Kartik Das and Bata Prusty jointly having 50% share each. But Bata Prusty, though was a co-owner having 50% share over those 3 Sabik Plots, had illegally and fraudulently sold 75% of the total area out of those 3 Sabik Plots to one Mirza Ajit Uddin vide RSD No.3951 dtd.06.09.1940 without partition and without consent of another Sabik recorded tenant Kartika Das who was in possession over his 50% share during his life time and after his death his successor is continuing on the same, thereby such sale which was not enforceable in law and Mirja Ajit Uddin could not mutate his purchased land in the office of Tahasildar, Cuttack during his life time even passing 45 years from the date of his purchased.

The Counsel of the Petitioner has also submitted that neither Kartik Das nor his successor, the petitioner has sold / transferred the properties belongs to Sabik Plot No. 560, 561 and 562 to anybody at any time as on date But after death of Mirza Ajit Uddin his son Mirza Jalil Uddin again Illegally and fraudulently sold and transferred entire 100% area measuring an area Ac.1.612 dec. of aforesaid 3 Sabik plots bearing Plot No.560, Plot No.561 and Plot No.562 under Sabik Khata No.159 including 50% share of Kartik Das to 22 persons during the middle session of Hal Settlement operation of the year 1985. Subsequently in the Hal Settlement the areas of said three Sabik plots have been recorded in favour of 22 persons including late father and sister of Opp. Party No.1 & 2 by the Settlement authority as illegally.

The learned Counsel for the Petitioner has contended by confining on Plot No.561 area Ac.0.067 dec. and Plot No.562 area Ac.1.350 dec. total area Ac.1.417 dec. as recorded under Sabik Khata No.159 as because these 2 Sabik plots are corresponded to the disputed Hal Properties and also stated by submitting two statement of 24 Nos. of Hal plot and 20 Nos. of RSD that after death of Mirza Ajit Uddin his son Mirza Jalil Uddin on the basis of RSD No.3951 dtd.06.09.1940 and during the period of Hal Settlement has Illegally and fraudulently sold and transferred entire 100% area measuring an area Ac.1.417 dec. of Sabik plot No.561 and 562 under Sabik Khata No.159 including 50% share of Kartik Das to 21 persons and transferred balance area in his name by converting into 24 plots including RSD No.2505 dated 29.05.1985 which is even beyond the area covered under the

fraudulent sale deed dt.06.09.1940 and behind back of the petitioner who is the successor of Kartik Das.

The learned Counsel for the Petitioner has also contended that in spite of two illegal successive sales made by Bata Prusty and son of his vendee namely Mirza Jallil Uddin were illegal and not enforceable in law and even though the sabik records were not mutated in favour of the purchasers still during settlement operation, the concerned field level staff and Officers of Hal Settlement without verifying the sabik records and without giving the opportunity to the present petitioner changed the ROR and created 24 nos. of Hal Plots in favour of the of 22 persons including late father of Opp. Party No.1 & 2. The RSD No.2505 dated 29.05.1985 executed in favour of one Goura Chandra Gantayat without any partition and without knowledge of petitioner. After knowing the illegalities, Goura Chandra Gantayat sold the same to one Gokulananda Bhanja vide RSD No. 3400 dtd,03.08.1988 and then Gokulananda Bhanja sold to Opp. party No.3 namely Mamata Satpathy vide RSD No.1348 dtd.24.02.2006 which is converted in Hal Khata No. 616/672, Hal Plot No.758/3033, area Ac.0.055 decimals illegally and the petitioner having the possession over the afore said Hal plots as on date for which the petitioner has approached to this court with a prayer for correction of Hal ROR by incorporating his name along with the opposite party No.1 & 2 as right title holder in respect of the suit property.

The counsel for the petitioner has submitted that no other case is pending before any court in respect of this suit plot. Mirza Ajit Uddin had purchased only un-divided share of Bata Prusty out of the suit property. He had never purchased the share of Kartik Das out of the joint property for which Mirza Ajit Uddin and his son Mirza Jalil Uddin was not entitled to deal or sale the share of Bata Prusty without seeking partition and separation of the share of Kartik Das.

Further when the land acquired by Bata Prusty and Kartik Das was a joint property therefore before sale of the exclusive share of Bata Prusty, Mirza Jalil Uddin had to go for partition before sale. In this regard the petitioner placed reliance on a decision of the Hon'ble Apex Court reported in AIR 2009 SC 2735 and of the Hon'ble High Court of Odisha reported in 2015 (II) ILR- CUT- 344. In view of the above settled position of law the sale and Delivery of possession given by Jalil Uddin son of Mirza Ajit Uddin without consent of Kartik Das or his successors including the petitioner is illegal and not enforceable in law and the sale deed executed in favour of the Opp. Party No.1 or her vendor are not binding on the petitioner.

The petitioner has placed 3 decisions during submission of his written note of argument from which one decision reported in A. I. R. 2009 SC 2735, the Hon'ble Supreme Court has been pleased to held that:

(i) A purchaser cannot have better title than what his vendor had.

(ii) An undivided share of co-sharer may be a subject matter of sale but possession cannot be handed over to the vender unless the property is

partitioned by metes and bounds amicable and through mutual settlement or by a decree of the court.

(iii) where the purchaser had purchased only undivided share in the suit property he could not own and claim for more than the share of the vender in the property nor he could not claim possession in respect of the entire property. He cannot claim relief on the ground of equity, as he himself is responsible for his act in purchasing undivided share in a part of the suit property without the knowledge and consent of the co-share.

The counsel of petitioner has also placed another reported 2015 (II) ILR-CUT -344, the Hon'ble High Court, Orissa has been pleased to held that:

(i) Para-7: Law is well settled that where a coparcener takes definite share in the property, he is owner of that share and as such he can alienate the same by sale or mortgage.

(ii) …….. while permits to sale his/her undivided interest with the joint family property. But this is however subject to the condition that the purchaser without the consent of his other coparcener cannot create possession except however he has a right to sue for partition.

The counsel of petitioner has also placed another reported in A. I. R. 1961 Punjab 528. (Sant Ram Nagina Ram vrs. Daya Ram Nagina Ram). In the above cited decision their Lordships after referring catena of earlier judgments have been pleased to hold that:

(i) A co-owner has an interest in the whole property and also in every parcel of it,

(ii) Possession of the joint family property by one co-owner, is in the eyes of law, possession of all even if all but one are actually out of possession.

The counsel for the petitioner has filed a copy of the Sabik ROR-159 in Sabik Mouza- Mirkamalpatna, Sabik P.S.-Cuttack, Thana No.205, Dist.-Cuttack from which it is clear that both Kartik Das, S/o- Giridhari Das and Bata Prusty, S/o- Kesari Prusty were co-owner. There is no mention in the Sabik ROR about the shares of each of them. In absence of any document this court has no other way than to accept the submission of the petitioner that both Kartik Das and Bata Prusty were having equal share over the aforesaid Sabik land.

Law is well settled that a litigant should not suffer and deletion of his name from the ROR is quite illegal and unjustified if he is otherwise a lawful owner and right title holder. This court, U/s – 15(b) of the O.S.& S. Act, 1958 has the ample authority to examine as to whether the entries incorporated in the impugned Hal ROR is correct or not and in case there is any omission or wrong recording therein then direction can be issued for correction of Hal ROR. Accordingly this court proceeded to examine the case of the petitioner.

The admitted case is that the petitioner has no grievance in respect of other plots except the area Ac.1.417 dec. belongs to Sabik plot No.561 and 562 under Sabik Khata No.159, one co-owner Bata Prusty, without due partition or consent of another share holder Kartik Das, had alone sold 75 % area measuring Ac.1.062 dec. 7.5 kadi to Mirza Ajit Uddin through RSD No.3951 dated 06.09.1940 though he was only entitled to 50% share. The petitioner has submitted that as the above sale was not enforceable in law therefore the aforesaid sale was not given effect and no mutation was made.

The petitioner has filed a copy of the sale deed dtd.06.09.1940 through which Bata Prusty sold the land to Mirza Ajit Uddin. It is revealed from such sale deed that Bata Prusty had sold the undivided joint property beyond his share without consent of another share holder Kartik Das and without partition by metes and bound, therefore such sale was neither acceptable in law nor valid for further sale.

Further from the documents such as statement showing the name of 22 numbers of purchaser and other relevant documents it is revealed that after death of Mirza Ajit Uddin his son Mirza Jalil Uddin had sold the entire area, even beyond the area covered under RSD dated 06.09.1940. So the sale made by Mirza Jalil Uddin also is not legal and enforceable in law.

It is settled in law that a purchaser of an immovable property cannot have better title than that of his vendor. When the sale deed dtd.06.09.1940 does not disclose as to how the vendor of Mirza Ajit Uddin got more than 50 % share and how his son Mirza Jalil Uddin sold 100% area belongs to Sabik plot No.561 and 562 beyond the area involved in the RSD dated 06.09.1940 though his late father Mirza Ajity Uddin had purchased only share of interest from Bata Prusty.

After scrutiny of the Sabik ROR, RSD dtd.06.-09.1940 and the area sold by Mirza Jali Uddin it is clear that both Bata Prusty and Mirza Jalil Uddin had sold area beyond their respective right, title and entitlements. The right, title interest and possession of Kartik Das from Sabik plot No.561 and 562 has never passed away or transferred in favour of anybody at any time.

Law is well settled that till the properties are partitioned by metes and bounds every co-owner has a right over every inch of the joint property. Transfer of immovable property by one of co-owners legally competent and is valid to the extent of his share only but not beyond the extent of his share.

As there is no material before this Court which shows any partition between Kartik Das and Bata Prusty in respect of the Sabik Plots and when there is absence of consent of Kartik Das or his successor/petitioner in the sale deed executed on dtd.06.09.1940 and subsequently by Mirza Jalil Uddin in favour of different persons for which it cannot be accepted that the share of Kartik Das has been extinguished in any manner over the suit property and therefore the publication of Hal ROR deleting the name of Kartik Das or of this petitioner as his successor is legal and justified.

Considering the submission of parties, after perusing the materials on record and discussion on law aspects, it is observed that, the claim of the Petitioner is genuine one. Thus, the revision is allowed and the Tahasildar, Cuttack Sadar is directed to record the name of petitioner alongwith the legal heirs of late Mirza Jalil Uddin the existing recorded tenant after verifying the original relevant documents, conducting field enquiry, Hal - Sabik co-relation with following due procedure.

SCHEDULE OF LAND

Mouza- Cuttack Sadar Unit No.22 Mirkamalpatna, P.S.- Mangalabag, District-Cuttack of Hal Settlement Khata No.160, Hal Plot No.758 area Ac.0.052 dec., Hal Plot No.758/1765 area Ac.0.020 dec., Hal Plot No.758/1749 area Ac.0.095 dec. and Hal Khata No.616/1749, Hal Plot No.758/3033 area Ac.0.055 dec. which corresponds to Sabik Plot No.561, area Ac.0.067 dec. (P) and Sabik Plot No. 562, "Sarada", area Ac.1.350 dec. (P) total area Ac.1.417dec. under Sabik Settlement Khata No.159.

Pronounced the order today.

Sd/-
Additional Commissioner,
Settlement and Consolidation, Cuttack

R.C. Case No. 65 of 2020

Decided on 02.03.2021

(Order by Smt. Sanjita Das, O.A.S(SAG),

Land Reforms Commissioner, Odisha, Cuttack)

I

Smt. Sobharani Choudhury	...	Petitioner.
	-Vrs-	
State of Odisha & another	...	Opp. Parties

Mr. A. R.Swainh	...	Adv. for the petitioner
Addl. Standing Counsel	…	For the State(O.P.No.1)
Mr. J.P. Das	,..	Adv. for the O.P.No.2

ORDER

This case was taken up to-day. Learned Counsel for the petitioner was absent. Both the learned Counsels for the State(O.P.No.1) and O.P. No.2 were present.

Heard. The petitioner has filed this petition U/s.37 (1) of the O.C.H & P.F.L Act, 1972 for correction of R.O.R in her favour as per purchase through R.S.D. No976, dated 07.08.2006. Went through the case record. The petitioner filed the relevant documents in support of her claim.

The learned counsel for the O.P.No.2 appeared by filing memo along with Vakalatanama and copy of the R.O.R submitted that the said unit has been finally published u/s.13(4) of the O.C.H and P.F.L Act, 1972.

On verification of documents it is revealed that the R.O.R of the said unit has been finally published u/s.13(4) of the O.C.H and P.F.L Act, 1972. But the petitioner has filed this revision petition u/s.37 (1) of the O.C.H & P.F.L. Act, 1972 which is not maintainable under Section 37(1) of the Act. Section 13 subsection (4) of the Act says that –

> "(4) Where in respect of any village an order is published under Sub-Section (1) of Section 5 at any time after the publication of the map and land register under sub-section (1), the map and the record-of-rights prepared on the basis of such land register shall, for all intents and purposes, be deemed to have been prepared under the Odisha Survey and Settlement Act, 1958(Odisha Act, 3 of 1959)"

The law is well settled that after publication of R.O.R. u/s. 13(4) of the O.C.H & P.F.L Act any error/ mistake should be rectified by filing Revision u/s.15 (b) of the O.S. & S Act, 1958. Hence, this revision is disallowed on the ground of maintainability. The petitioner is at liberty to file the case under appropriate Section.

Accordingly, the case is disposed of.

Pronounced in the open Court on this day of 2nd March,2021.

Sd/-
Land Reforms Commissioner, Odisha

SRP Case No. 96 of 2020

Decided on 04.03.2021

(Order by Smt. Sanjita Das, O.A.S(SAG),
Land Reforms Commissioner, Odisha, Cuttack)

Bhubaneswar Dash and others ... Petitioners.

-Vrs-

Jogesh Chandra Dash ... Opp. Party

Mr.B. Dash ... Adv. for the petitioners

ORDER

This case was taken up to-day. Both the learned Counsel for the petitioner and State were present. The Opp. Party in person was present.

Went through the case record. The petitioners have filed the Limitation petition u/s.5 of the Limitation Act, 1962 for condonation of delay. Accordingly, the delay is condoned.

In this revision, the Advocate for the petitioners contended that the suit land was the ancestral property of the parties situated in Mouza / P.S./ Tahasil: Tirtol, Dist.-Jagatsinghpur which stands recorded in the names of petitioners and Opp. Parties in the Consolidation ROR published U/s.13(4) of the O.C.H & P.F.L Act. 1972 on dt. 04.03.2014 pertaining to Hal Consolidation Khata No.62, Plot No.1394, Ac.0.08 dec, Plot No. 1521,Ac.0.09 dec., Plot No. 1533, Ac.0.12 dec., Plot No 1625, Ac.0.07 dec. in total Ac.0.36 dec. The petitioners have pleaded to correct the ROR in their name exclusively as per their family mutual settlement.

The Opp. Party appeared by filing ' No objection' and stated that his name has been wrongly recorded in the R.O.R. the R.O.R be corrected as per family mutual settlement in the name of the petitioners only.

On verification, it is seen that the Consolidation ROR published U/s.13(4) of the O.C.H & P.F.L Act. 1972 has been wrongly recorded both in the name of the petitioners and Opp. Party instead of petitioners. The Opp. Party vide his ' No Objection' has stated that the said property be recorded in the name of the petitioners exclusively by deleting his name as per their family settlement as the name has been recorded inadvertently in the R.O.R. Since there is no scope for the Tahasildar to correct the ROR, the petitioners prayed before this Court to correct the same.

In view of this, Tahasildar, Jagatsinghpur is directed to correct the ROR as per their family settlement only after proper field enquiry and verification of the related documents of the case following due procedure of law.

SCHEDULE OF THE LAND

Mouza / P.S./ Tahasil: Tirtol, Dist.-Jagatsinghpur
Hal Consolidation Khata No.62, Plot No.1394, Ac.0.08 dec, Plot No. 1521,Ac.0.09 dec., Plot No. 1533, Ac.0.12 dec., Plot No 1625, Ac.0.07 dec. in total Ac.0.36 dec.

Accordingly, the case is disposed of.

Pronounced in the open Court on this day of 4th March, 2021.

Sd/-
Land Reforms Commissioner, Odisha

RP Case No. 77 of 2020

Decided on 11.01.2022

(Order by Smt. Sanjita Das, O.A.S(SAG),
Land Reforms Commissioner, Odisha, Cuttack)

Balunkeswar Sahoo and 05 others .. Petitioners

-Vrs-

State of Odisha represented through
Commissioner-Cum-Secretary, Revenue and D.M Deptt.,
Govt. of Odisha & others ... Opp. Parties.

Mr. H.K. Ratsingh	...	Adv. for the petitioner
Sri S. K. Swain	...	Adv. for the O.P.No.7 .
Addl. Standing Counsel	…	For the State.

ORDER

This case was taken up to-day for hearing following the guide line of COVID-19.

The learned counsels for the petitioners learned Counsel for Opp. Party No.7 and learned Addl. Standing Counsel for the State (O.P. No. 1 to 6 & 8, 9) were present.

The petitioners have filed this petition U/s.37 (1) of the O.C.H & P.F.L Act, 1972 for correction of Hal Consolidation ROR in respect of the schedule land.

Heard. The learned Counsel for the petitioners submitted that " the name of Upendranath Panda be set aside / deleted from the Hal R.O.R of Plot No. 462, Khata No.74 and same be corrected as per Sabik ROR of Plot No.331, Khata No.571 as mentioned in the Schedule or be corrected / recorded in the name of Government under Srbasadharana Khata for the public purpose or communal purpose and any consequential order be passed for recovery / restoration of Sarbasadharana **ANABADI** land "**JALASAYA**" for the communal use of the general public and villagers/ inhabitants of village Talapada".

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On the other hand the Counsel for the Opp. Party No.7 submitted that " the Sabik Plot No.331 an area Ac.1.86 decs, under Sabik Anabadi Khata No.571 of Mouza – Talapada, P.S. Tirtol, Dist: Cuttack with the status "**NIJOT**", Kisam – "**Ganda**" originally belongs to Shree Gopinath Jew Thakur, the private deity represented through its marfatdar Raghunath Choudhury, the grandfather of the O.P. No.7 and other co-sharers and accordingly the same has been recorded in the Sabik R.O.R through the kisam recorded as "**Ganda**" but in course of time the nature and character of the suit land has been changed due to erosion of earth and so also natural process and extension of Taladanda Canal, which lost its original character and becomes a highland with full of wild bushes and there being a partition in between the said recorded co-sharers, the suit land was exclusively allotted with Raghunath Choudhury. Raghunath Choudhury leased out the schedule land to Upendra Panda and Rabindranath Choudhury on receipt of Salami, rent etc. After delivery of possession they had started cultivation and raising crops regularly and converted the same to a homestead land. After abolition of Estate in the year 1956, basing in the Ekpadia and physical possession and perusing the relevant records, the State of Odisha settled the land in the name of Upendranath Pand under the Provision of O.E.A. Act. Though the land was leased out both Upendranath Panda and Rabindranath Choudhury who are jointly paid rent, salami etc. and got the possession but Rabindranath Choudhury being minor by then, the Ekpadia was

submitted in the name of Upendranath Panda on which the OEA Collector settled the land alone in his name though in fact both Upendranath Panda and Rabindranath were co-tenants. The Tahasildar, Kujanga transferred the suit land in favour of Sailo G.P. and recommended to Sub-Divisional Officer, Jagatsinghpur to cancel the lease granted by Ex-proprietor in a proceeding U/s.5 (i) of the OEA Act, the same was challenged by Rabindranath Choudhury, in the same proceeding it has been held that the lease granted by the Ex-proprietor is genuine and valid and cancel the transfer made by the Tahasildar, Kujanga. Against the said order Sailo G.P challenged the same before the A.D.M by filing an Appeal wherein A.D.M upheld the possession of Rabindranath Choudhury as tenant over the suit land. Due to dissensions between Upendranath Panda and Rabindranath Choudhury there was a Regd. Partition Deed was made between them vide Regd. Partition Deed No.1377, dated 29.05.1986 and both are allotted Ac.0.93 decs, subsequently Upendranath Panda transferred his share in favour of Rabindranath Choudhury vide Regd. Sale Deed No.1811, dated 08.07.1986, since then the father of O.P.No.7 became absolute owner in possession. Thereafter villagers of Balidihi, Bhaliapatna, Talapada, Barundi, Sailo, Teramanpur had filed a suit bearing T.S. No.277 of 1986 before the Munsif, Jagatsinghpur for declaration of their communal right over the same land and filed a Misc. Case bearing No.269 of 1986 U/O 39, Rules 1 & 2 or C.P.C for temporary injunction against the Rabindranath Choudhury which was dismissed on 05.01.1987 and the suit was also dismissed on 19.02.1988. Though the suit land being recorded in the name of Upendranath Panda and Rabindranath Choudhury, the father of O.P.No.7 filed a Consolidation Revision U/s. 37(2) of the Act, and the Director, Consolidation vide order dated 29.07.2016 directed to the Tahasildar, Kujanga to delete the name of Upendranath Panda from Consolidation Khata No.74 of village-Talapada and in its place insert the name of Rabindranath Choudhury. Further, some villagers of Talapada filed a Civil Suit bearing No. T.S. No.98 of 2001 / T.S. No.260 of 1996 claiming their right over the suit land which was dismissed. Against the said order of learned Munsif the villagers challenged the same before the Addl. District Judge, Jagatsighpur who dismissed the Appeal vide RFA No.63 of 2015. Admitting the title and possession of Rabindranath Choudhury over the suit land the villagers of Talapada namely Rabindranath Sahoo and Nrusingha Charan Sahoo purchased an area Ac.0.16 decs, from him vide Regd. Sale Deed No.986, dated 12.05.1989 and now possessing the same. So, now the petitioners who are the villagers/ inhabitants of Village Talapada cannot be said that the suit land is a communal land.

The Addl. Standing Counsel representing the State submits that the land in question is a Govt. land as per 1930 R.O.R. having classification **"GONDA".** Upendranath Panda and Rabindranath Choudhury in connivance with the Consolidation Authorities managed to record the name of Upendranath Panda in finally published Consolidation ROR and subsequently the said Rabindranath Choudhury managed to get the same from Upendranath Panda by way of Regd. Partition Deed and Registered Sale Deed. In the mean while, some portions of the

Plot No.462 have been alienated and different bata plots generated out of Plot No.462 under Consolidation Khata No.74 which is illegal and unlawful. It is settled principle of law that the land which is "**Gonda"** and **"Jalasaya"** in classification can't be settled in favour of any private individual, hence prayed to record the area of bata plots generated from Plot No.462 in Govt. Anabadi Khata.

Went through the available documents along with written note of submissions and arguments advanced by the parties concerned**,** the following observations are made.

In mouza – Talapada, Sabik Plot No.331, Ac.1.860 decs, Kisam – Gonda stood recorded under Sabik Anabadi (Rakshit) Khata No.571 as per finally published C.S. R.O.R in the year 1930. Sabik Plot 331 under Sabik Khata No. 571 corresponds to Hal Plot No.462 under Hal Khata No.74. Hal Plot No.462, Ac.1.840 decs, Kisam – Jalasaya – II under Hal Khata No.74 stands recorded in the name of Upendranath Panda, S/o Brundaban Panda as per finally published Consolidation ROR in the year 1987. The Plot No.462 has been originated out of L.R. Plot No. 484 and Ass. Consolidation Officer in Objection Case No.225/6911(A) U/s.15 (1) of O.C.H and P.F.L Act, 1972 has passed order to record the L.R. Plot No.484, Ac.1.840 decs, Kisam- Jalasaya – II in the name of Upendra Nath Panda on the basis of Jamabandi and the rent receipt bearing No. P4 636122, dt. 29.12.1985 produced by the Objector. It is mentioned in the order sheet that since the Govt. has realized rent Rs. 373/- from Upendranath Panda with all the arrear dues, there is no doubt in settlement of the land in favour of the objector.

Admittedly, except the interest of raiyat, the other interests held by intermediary before date of vesting stood ceases and the land stood vested absolutely in the State Govt. free from all encumbrances. Accordingly, Sabik Plot No.331 of the Mouza – Talapada under Kujanga Tahasil stood vested in the State. The Opp. Party No.7 claims that the land in question has been settled U/s. 5(i) of the OEA Act. However, on order dated.14.12.2021 the Opp. Party No.7 was asked to submit the certified copy of the order passed U/s.5 (i) of the OEA Act. But he failed to submit the same. That apart, any settlement by the OEA collector u/s.5 (i) needs to be confirmed by the Board of Revenue. The proviso U/s.5 (i) reads as follows:

> ***"Provided that in case where the Collector decides not to set aside any such settlement, lease or transfer he shall refer the case to the Board of Revenue for confirmation of the settlement, lease or transfer and the orders passed by the Board of Revenue in this behalf shall be final."***

In the instant case, the claim of the Opp. Party No.7 is that the Govt. Plot No.331 was settled through Sec. 5 (i) of the O.E.A Act, is without any documentary evidence. This establishes that after vesting, the Govt. Plot No.331 was never settled in favour of any private person. Thus, under questionable circumstances, the rent

has been collected vide R.R. No. P4 636122, date 29.12.1985. Law is well settled that the Tahasildar is competent to collect the rent only after settlement of land. It is crystal clear that Plot No.331 was not settled but rent was realized by the Tahasildar, which is beyond jurisdiction.

"In case of State of Orissa Vrs. Brundaban Sharma (1995) Supp.(3)SCC 249 it is held that " the collection of land revenue or rent otherwise is in regular course of duty. It does not operate as recognition of pre-existing right, title and interest of land. "The collection of rent by the Tahasildar in respect of Plot No.331 is administrative in nature and not quasi-judicial. In case of Dwarka Prasad Agarwal(D) by LRS Vrs. B.D. Agarwal and others reported in (2003) 6 SCC 230 that " an order without jurisdiction is a nullity. Any order passed or action taken pursuant there to or in furtherance thereof would also be nullities." In view of above principles of law, Rent receipt No. P4 636122, dt. 29.12.1985 lacks legal force."

Now the question looms large whether a rent receipt obtained from the Manijanga R.I Office under Kujanga Tahasil is sufficient to claim title in respect of Plot No.331? The Asst. Consolidation Officer has passed order relying upon the rent receipt. A thorough reading of entire matter indicates that the Asst. Consolidation Officer has over stepped his jurisdiction and passed the order to record the L.R Plot No.484 Ac.1.840 dec, in the name of Upendranath Panda, S/o Brundaban Panda. Consequently**,** Plot No.462, Ac.1.840 dec, Kisam – Jalasaya-II under Khata No.74 was recorded in the name of Upendranath Panda, S/o Brundaban Panda as per finally published Consolidation R.O.R. in the year 1987. The preparation of record of rights by Asst. Consolidation Officer relying upon a mere rent receipt is not sustainable in eye of law. He had taken no attempt to examine the genesis and prognosis of aforesaid rent receipt and Jamabandi. It can't be disputed that the rent receipt dated 29.12.1985 is certainly a force but on thorough examination of documents and in legal parlance, it is viewed that the collection of rent is without authority.

"*In case of Suraj Bhan Vrs. Financial Commissioner (2007) 6 SCC 186, it is observed and held by the Supreme Court that an entry in Revenue Records does not confer title on a person whose name appears in Record of Rights. Entries in the Revenue Records or Jamabandi have only "fiscal purpose". i.e. payment of land revenue, and no ownership is conferred on the basis of such entries. Similar view has been expressed in the case of Suman Verma Vrs. Union of India(2004), 12 SCC 58, Faqruddin Vrs. Tajuddin, (2008) 8 SCC 12, Rajinder Singh Vrs. State of J & K,(2008)9 SCC 368, Municipal Corporation Aurangabad Vrs. State of Maharastra, (2015) 16 SCC 689, T Ravi Vrs. B Chinna Narasimha, (2017) 7 SCC 342, Bhimabai Mahadeo Kambekar Vrs. Arthur Import & Export Co.(2019) 3 SCC 191, Prahalad Pradhan Vrs. Sonu Kumar (2019) 10 SCC 259 and Ajit Kaur Vrs. Darshan Singh (2019) 13 SCC 70*".

The available records reveal that the ownership of Plot No.331 has been discussed in different Revenue Courts, Civil Court and Hon'ble High Court. But the fundamental principles of law involved in manner of recording has been lost sight of. The Opp. Party No.7, has taken the stand that plot No.331 recorded in Anabadi (Rakshit) Khata in the year 1930 was settled in the name of Upendranath Panda U/s. 5(i) of OEA Act.***But significantly, the so claimed settlement U/s.5(i) of OEA Act has never been raised nor challenged in any Court of law.***

Beyond any doubt it is observed that the order passed by the Asst. Consolidation Officer is without jurisdiction and bad in law. It is settled legal proposition that if an order is bad since its inception it does not get sanctified at a later stage. A subsequent action or development cannot validate an action which is not lawful at its inception, for the reason that illegality strikes at the root of the order. It would be ironical to permit a person to rely upon a law, in violation of which he has obtained the benefits.

***"In Mangal Prasad Tameli(dead) by LRs-Vrs. Narvadeswar Mishra(dead) by LRs and others, (2005) 3 SCC 422, it was held that if an order at the initial stage is bad in law, then all further proceedings consequent there to will be non est and have to be necessarily set aside*".**

The available papers on record confirm that neither the land in question i.e. Sabik plot No.331 has been settled U/s.5 (i) of the O.E.A Proceedings nor the matter was referred to the Board of Revenue for confirmation. So, the settlement of Govt. land in favour of Upendranath Panda lacks legal sanctity. In the State of Orissa Vrs. Harapriya Bisoi, it was observed by the Supreme Court of India as under –

"In Brundaban's case this Court held that even in a case where the OEA Collector "decides not to set aside the lease, he should have referred the case to the Board of Revenue. The object of conferment of such power on the Board of Revenue appears to be to prevent collusive or fraudulent acts or actions on the part of the intermediaries and lower level officers to defeat the object of the Act." This Court further held that even if the OEA Collector decides that a lease was purposed to have been granted before 1.1.1946 and is not liable to be set aside, without reference of confirmation by the Board of Revenue, such lease would not attain finality and non est in the eye of law. A non est order is a void order and it confers no title and its validity can be questioned or invalidity be set up on any proceeding or at any stage."

The moot question is how a public property will be used by a private person without having a lawful flow of title. The declaration of title can't be granted in the absence of established truth in flow of title. Documentary evidences confirm that Panda had no flow of title. The manner of recording of a Govt. land in favour of a private person has never been examined properly by the Court of law. It is a fact that the land in question has never been settled U/s.5(i) and the so called recorded

tenant Upendranath Panda has availed the benefits by suppressing the material documents.

"The court in Bhaurao Dagdu Paralkar Vrs. State of Maharastra (2005) 7 SCC 605 held that: "Suppression of material document would also amount to a fraud on the Court. Although negligence is not a fraud but it can be evidence on fraud." Also Hamza Haji Vrs. State of Kerala & another, AIR 2006 SC 3028, it is observed that : "No Court will allow itself to be used as an instrument of fraud and no court, by the application of rules of evidence or procedure, can allow its eyes to be closed to the fact that it is being used as an instrument of fraud. The basic principle is that a party who secures the judgment by taking recourse to fraud should not be enabled to enjoy the fruits thereof".

This matter has come across different stages of litigation, though the issues were not alike. At the same time the Opp. Party No.7 has never preferred to produce all the required vital documents.

"In S.P. Chengalvaraya Naidu(dead) by L.Rs Vrs. Jagannath (dead) by LRs & others: AIR 1994 SC 853, the Apex Court commenced the verdict with following words:

> ***"It is settled position of law that a judgement or decree obtained by playing fraud on the Court is a nullity and non est in the eye of law. Such a judgment / decree by the first court or by the highest court has to be treated a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings".Their Lordships stated: "The courts of law are meant for imparting justice between the parties. One who comes to the court must come with clean hands. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of litigation." Further observed "A litigant, who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as the opposite party."***

The Kisam of Sabik Govt. Plot No.331 stands recorded "**Gonda**" which corresponds to the Hal Plot No.462 as **Jalasaya**. As per report of the Addl. Sub-Collector, Jagatsinghpur the nature and character of Plot No.331 is "**Gonda**" but has been recorded in the name of Upendranath Panda S/o Brundaban Panda in HAL ROR having kisam **Jalasaya**. Now the questions arises how "**Gonda**" means a water reservoir can be recorded in the name of a private person?

" Hon'ble Supreme Court in case of Hinchlal Tiwari Vrs. Kamala Devi and others, in Civil Appeal Case No.4787 2001 have held that " a pond exists and the area covered by varies in the rainy season. In such a case no part of it could have been allotted to anybody for construction for house building or any allied purposes. It is important to notice that the materials resources of the community like forests, tanks, ponds, hillock, mountain etc are nature's bounty. They maintain ecological balance. They need to be protected for a proper healthy environment which enables people to enjoy the quality of life which is the essence of the guaranteed right under Article 21 of the Constitution. In the aforesaid judgment order was passed to vacate the allotted Govt. land and take away the constructed materials on the said land".

The Govt. Plot No.331 with kisam ***Gonda*** (water reservoir) was no doubt in the use of community. Its recording in the name of private person with hal Plot No.462 and subsequent sale transaction into pieces, then change of kisam and construction activities thereon is not permissible in the eye of law, as per above observations by the Hon'ble Apex Court.

Keeping these in view, this Court has every reason to order that recording of plot No. 462, Ac. 1.840 decs, under Khata No.74 in the name of Upendranath Panda is illegal and hence declared null and void. Consequently, the subsequent transfer as detailed below relating to said plot No.462 and recoding thereof in the name of Upendranath Panda in different Bata Plots is also declared illegal and void as well.

Khata No.	***Plot No.***	***Kisam***	***Area(in decimals)***
74	462	Jalasaya-II	Ac.0.4800
	462/2267	Jalasaya-II	Ac.0.2000
	462/2269	Jalasaya-II	Ac.0.2300
755/9	462/2264	Jalasaya-II	Ac.0.2500
755/16	462/2265	Jalasaya-II	Ac.0.0800
755/27	462/2266	Jalasaya-II	Ac.0.0400
755/28	462/2268	Jalasaya-II	Ac.0.1200
755/32	462/2272	Gharabari	Ac.0.0800
		(8 (i) permission has not been obtained)	
755/42	462/2275	Gharabari	Ac.0.0900
		(8 (i) permission has not been obtained)	
755/220	462/2348	Jalasaya-II	Ac.0.1100
755/243	462/2365	Jalasaya-II	Ac.0.1200
755/313	462/2417	Jalasaya-II	Ac.0.0400
		(tenant name is not mentioned in the ROR)	
		Total area:	**Ac.1.840 dec.**

Considering the rival contentions of both the parties coupled with materials based on record, it is ordered that all the Bata Plots generated from the Plot No.462 and the present available area thereon with Plot No.462 be recorded with ***"Abada***

***Jogya Anabadi Khata*"** and accordingly the name of Upendranath Panda be deleted from the tenant column of Khata No.74. The Tahasildar Kujanga is here by directed to implement the order immediately in order to protect the interest of the State.

The revision petition stands disposed of.

SCHEDULE OF LAND

Mouza – Talapada, Tahasil – Kujanga, P.S. Tirtol, Dist: Jagatsinghpur.

Hal Consolidation Khata No.74, area of Ac.1.84 decs, corresponding to Sabik Khata No.571(Anabadi), Plot No.331, Touzi No.7489, 8106, 8107, 8109, 8110, 8111., Kisam Ganda, area of Ac.1.86 decs.

Pronounced in the open Court on this day of 11th January, 2022.

Sd/-
Land Reforms Commissioner, Odisha

Misc. Case No.09/2020

(Arising Out of REVISION PETITION No.423/2017)

Decided on 10.03.2021

(Order by Smt. Sanjita Das, O.A.S(SAG),
Commissioner, Consolidation,Odisha, Cuttack.)

Asit Kumar Panda & Others .... Petitioners
-Versus-
Narahari Panda and another .... Opp. Parties
Counsel for the Petitioners: - Mr. M. Mohanty
Counsel for the Opp. Party: -

D E C I S I O N

1.0. In the Misc. Case No.09/2020 filed by the present petitioners arising out of Revision Petition No.423/2017 filed U/s 15(b) of the O.S. &S. Act, 1958 relating to Vill.-Olaver, PS-Rajkanika, Dist-Kendrapara the Petitioners Asit Kumar Panda & Others have prayed to recall the order dt.03.07.2019 passed by this Court.

2.0. The petitioners in the Misc. Case No.09/2020 was the Opp. Parties in this Revision Petition. The Commissioner, Consolidation has passed the order considering the available documents on record and nature of relief prayed for by the Petitioners.

3.0. The learned Counsel for the Petitioners and Addl. Standing Counsel for the State were present and Opp. Parties in the Misc. Case were absent. In the course of hearing Counsel for the present petitioner submitted that the same case is pending

before the learned Civil Judge, Senior Division, Pattamundai vide Civil Suit No.615/ 2015. Hence, this Court has no power to adjudicate the same on merit.

Accordingly this case is disposed of.

Pronounced the order in the open court today.

Sd/-
Commissioner,
Consolidation, Odisha, Cuttack

OSS Case No. 539 OF 2015

Decided on 13.08.2020

(Order by Sri Chandramani Badnayak, OAS (SAG),
Addl. Commissioner, Addl. Revisional Court No. III, Bhubaneswar)

Anwar Khan & another .... Petitioners
-Versus-
Tahasildar, Jatni & others .... Opp. Parties

Counsel for the Petitioners: - Mr. Laxmidhar Biswal, Advocate
Counsel for the Opp. Party: - Mr. Himansu Choudhry,
Addl. Standing Counsel

Decision/Orders Passed

1. This revision petition has filed by Anwar Khan & Akbar Khan, Both are S/O- Samsur Khan under section 15(b) of the Odisha Survey & Settlement Act, 1958 for correction of Hal ROR of the suit land mentioned below which has already been finally published on 25.10.2013 as per Hal Settlement operation.

Schedule of Property

Mouza- Gramadihi, P.S.- Chandaka, Tahasil- Jatni, Dist. – Khurda,

Sabik Khata No. 17, Sabik Plot No. - 77, Area Ac.0.90dec. out of Total area Ac.0.103dec. which is corresponding to Hal Khata No- 209, Hal Plot No- 213, Area H0.417 .

2. The Case of the Petitioner is that the scheduled land in question was stood recorded originally in the name of Kalika Majhi, S/O- Saita Majhi in the Sabik Khata No. 17, Sabik Plot No. 77 involving area Ac.0.103dec. under Kisam Bari in the village Gramadihi as per 1962 Sabik Settlement. This plot is corresponding to Hal Khata No. 209, Hal Plot no. 213 involving area H0.0417under Kisam Gharabari in the village Gramadihi as per Hal Settlement which has been finally published on dt. 25.10.2013. In the Hal record the recorded tenants have been changed and the suit land has been recorded in the name of Sudhir Majhi, Rudrasen Majhi, Sita Majhi and Pramila Majhi as the successor as per status report of the Taahsildar Jatni on dt. 12.07.2019

as well as PWR of A.S.O. Record Room, Cuttack on dt. 16.08.2019. On the other hand, the above recorded tenants have sold the suit property to the present Petitioner vide R.S.D. no. 11121303854 dt. 20.05.2013 (Ac.0.090dec. out of Ac.0.103dec.) and the Petitioner could not be able to produce the above sale deed before the Settlement authority for spot mutation. As a result of which, the suit property has been recorded usually in the name of the Hal recorded tenant. This Court has considered the prayer of the present Petitioner and above R.S.D. on merit by observing all the Court formalities in the legal procedure.

3. Under the above circumstances, verified the original sale deed and Sabik-Hal records, PWRs submitted by the Settlement Office, Status report of the Tahsildar Jatni and field possession report of the R.I. Cancapada along with the sketch map etc. connecting land records. This Court has also issued sufficient notices to the Opposite parties. The OP no. 2, OP no. 3 and OP no. 4 have appeared in the Court and admitted about the transfer of the land through execution of the sale deed on dt. 12.03.2020. They have also submitted their affidavits regarding "No objection views" due to sale deed. In the view of the above facts & documentary proofs,this Court feels that there is no dispute at all between the Vendors and Vendee. It is a clean case of mutation. Hence, the revision is allowed as per section 15(b) of the OSS Act, 1958 in favour of the present Petitioners.

4. The Tahsildar, Jatni is directed to correct the Hal record of rights (ROR) in the name of the petitioners as per land schedule mentioned in the R.S.D. no. 11121303854 dt. 20.05.2013.

5. The Settlement Officer, Cuttack is directed to correct the Hal record of rights (ROR) in the original khatian copy accordingly in the name of the Petitioners as per land schedule mentioned in the R.S.D. no. 11121303854 dt. 20.05.2013.

6. Send the copy of this Order along with the copy of R.S.D. no. 11121303854 dt. 20.05.2013 to the Tahasildar Jatni / Settlement Officer Cuttack for necessary compliance within a period of a month of receiving the copy of this Order.

7. Original copy of documents filed, be returned to the Petitioner by proper acknowledgement in the case record, by keeping photo copies of the same in the case record.

8. The compliance, along with this Order be send to Deputy Secretary (Judicial), Board of Revenue, Odisha, Cuttack for favour of kind information of the Hon'ble Member, Board of Revenue, Odisha, Cuttack.

9. Pronounced the Order in the open Court today i.e. on the 13th August, 2020.

Sd/-
Addl. Commissioner,
Addl. Revisional Court, Bhubaneswar.

RP Case No. 630 OF 2015

Decided on 22.10.2020

(Order by Sri Chandramani Badnayak, OAS (SAG),
Addl. Commissioner, Addl. Revisional Court No. III, Bhubaneswar)

Sumit Rayguru ..... Petitioner
-Versus-
State of Odisha Through Collector Khordha ..... Opp. Party

For Petitioner : Mr. Rabi Shankar Rath, Advocate
For Opposite Party : Mr. Himansu Choudhry,
Addl. Standing Counsel

Decision/Orders Passed

1. This revision petition has filed by Sumit Rayguru, S/O - Sri Badriprasad Rayguru under section 15(b) of the Odisha Survey & Settlement Act, 1958 for correction of Hal ROR of the suit land mentioned below which has already been finally published on 14.11.2013 as per Hal Settlement operation.

Schedule of Property

Mouza- Ghatikia, Tahasil – Bhubaneswar, Dist.- Khurda, Sabik Khata No. 443, Sabik Plot No. - 203, corresponding to Rev. Plot no. 52 which is corresponding to Hal Khata No- 1844, Hal Plot No- 7009.

2. The Case of the Petitioner is that the scheduled land in question is related to a lease land allotted by the G.A. Deptt., Govt. of Odisha. With reference to G.A. Deptt. allotment letter no. 7160 dtd.23.04.1992, letter no. 7117 dtd. 09.04.1999 and subsequent letter no. 9628 dtd. 04.06.1999 by Additional Secretary to govt. G.A.Deptt. & Ex-Officio Director of Estate of G.A. Deptt. and the petitioner was asked to execute a conveyance deed to this effect. Accordingly, conveyance deed was executed on dt. 12.07.1999 between the present petitioner and the Additional Secretary to govt. G.A.Deptt. & Ex-Officio Director of Estate of G.A. Deptt. followed by conversion of the land to free hold. Besides, as per letter no. 713 dtd. 09.04.1999 of the Land Officer of G.A. Department to the Tahasildar, Bhubaneswar, the ground rent of the land was fixed at Rs.16.90paisa for the land with Kisam as Gharabari.

On the other hand, during the Settlement operation, they issued notice on Dt.17.12.2007 for verification of documents and issued the PARCHA after thorough verification of the documents in favour of the Petitioner Sumit Rayguru. The details of the PARCHA is “Mouza- Ghatikia, P.S. Chandaka, P.S. no.50, Tahasil-Bhubaneswar, Dist. Khurda, Revised plot no. 709, Khatian Sl. No. 1358, Kisam-Gharabari, Area 55decimals” and on 10.04.2014 they distributed Patta, where the Kisam of the land was reclassified as Patita in the Patta although it was Gharabari in the PARCHA & especially when the plots were distributed by non-other than GA department under housing schemes. They did not consider and adhere the valid

documents of the govt. of Odisha, G.A. department and haras the Petitioner who had purchased free hold land. As per PWR of the Settlement Office, the Kisam of the land as per Hal record is also reported as Kisam- Patita. However, the Settlmeent authorities have wrongly mentioned the Kisam of the land as "Patita" instead of "Gharabari" before final publication of RoR under section 15(b) of the OSS Act, 1958.

3. Under the above circumstances, verified the original Conveyance deed dtd. 12.07.1999, Sabik-Hal records, PWR submitted by the Settlement Office, field possession report of the Tahasildar Bhubaneswar, Status report & Clearance report of the G.A. Deptt. supplied to this Court on dt. 01.06.2020, registered lease deed of G.A. Deptt. vide no. 3470 dt. 24.08.1999 etc. In the view of the above facts and documentary proofs, the Court feels that there is no dispute at all between the successor of the Vendors and the Vendee and it is a clean case of mutation. Hence, the revision is allowed as per section 15(b) of the Odisha Survey & Settlement Act, 1958 in favour of the present Petitioner.

4. The Tahasildar, Bhubaneswar and the Settlement Officer, Cuttack are directed to correct the Hal record of rights (ROR) in the name of the petitioner Sumit Rayguru, S/O - Sri Badriprasad Rayguru separately as per land schedule mentioned in the registered lease deed of G.A. Deptt. vide no. 3470 dt. 24.08.1999, Conveyance deed executed on dt.12.07.1999 and G.A. Deptt. letter no. 7129 dt. 09.04.1999.

5. Send the Copy of this Order along with the copy of registered lease deed of G.A. Deptt. vide no. 3470 dt. 24.08.1999, Conveyance deed executed on dt.12.07.1999 to the Settlement Officer, Cuttack for necessary compliance/ rectification within a period of a month of receiving the copy of this Order.

6. Send the Copy of this Order along with the copy of registered lease deed of G.A. Deptt. vide no. 3470 dt. 24.08.1999, Conveyance deed executed on dt.12.07.1999 to the Tahasildar Bhubaneswar to issue the ROR in favour of Sumit Rayguru, S/O - Sri Badriprasad Rayguru separately with reference to G.A. Deptt. letter no. 7129 dt. 09.04.1999.

7. Original copy of documents filed, be returned to the Petitioner by proper acknowledgement in the case record, by keeping photo copies of the same in the case record.

8. The compliance, along with this Order be send to Deputy Secretary (Judicial), Board of Revenue, Odisha, Cuttack for favour of kind information of the Hon'ble Member, Board of Revenue, Odisha, Cuttack.

9. Pronounced the Order in the open Court today i.e. on the 22nd October 2020.

Sd/-
Addl. Commissioner,
Addl. Revisional Court, Bhubaneswar.

OSS Case No. 591 OF 2019

Decided on 16.04.2021

(Order by Sri Pratap Chandra Rout, OAS (SAG),
Addl. Commissioner, Addl. Revisional Court No. II, Bhubaneswar)

Dillip Kumar Patra ..... Petitioner
-Versus-
Lakshmipriya Dutta & others ..... Opp. Parties

For Petitioner : Mr. A Rout, Advocate & Associates
For Opposite Party No. 1 to 10 : None
For Opposite Party No. 11 : Mr. S. K. Dash,
Addl. Standing Counsel

O R D E R

The counsel for the petitioner had filed one petition U/s-15 (b) of O.S & S Act., 1958 to prepare the Hal ROR in the name of petitioner separately by virtue of R.S.D as well as physical possession of the petitioner in the field.

SCHEDULE OF PROPERTY

Mouza- Bhubaneswar Sahar Unit 39 Gadakana, Tahsil- Bhubaneswar,
PS- New Capital, Dist- Khurda.

Sabik Khata No.	Plot No.	Area
791	3597	Ac.1.257 dec. out of Ac.1.410 dec
Hal Khata No.	**Plot No.**	**Area**
1035	6849	

Basing on the aforesaid petition of the petitioner one O.S.S. Case had been registered vide O.S.S case No. 591/2019 and notices have been issued to all opposite parties by Regd. Post. In spite of service of notice, the opposite party 1, 2, 4a, 4b, 6, 7, 8, 9 & 10 did not turn up for which they had been set ex-parte. In response to notice opposite party 3 & 5 appear in this case and stated the suit plot record in the name of petitioner as per his purchased from R.S.D. The Additional Standing Counsel Mr. S. K Das is present for State. Thus this case heard in presence of the counsel for the petitioner, opposite party No. 3 & 5 and The Additional Standing Counsel.

The Hal ROR of Mouza Gadakana had been finally published on 22.07.2014 and the revision petition had been filed on 22.04.2019. So The counsel for the petitioner had filed one petition U/s 5 of Indian limitation Act, 1963 for condonation of delay as there was delay in filing this revision case. The delay had been condoned on consideration of the limitation petition and the case had been admitted.

The counsel for the petitioner had submitted the Certified copy of Sabik ROR bearing Khata No. 791 Sabik Plot No. 3597 of Mouza Gadakana which stands

recorded in the name of Manmath Dutta S/o- Jugal Kishore Dutta, Certified copy of Hal ROR bearing Khata No.1035 Plot No. 6849 of Mouza- Gadakana Ps NewCapital which stands recorded in the name of Chandra churd Dutta, Bijay Kishore Dutta, Sailendra Kishore Dutta, Nimai Kishore Dutta, Sankar Dutta, Debajani Dutta, Sunanda Dutta, Lakshmipriya Dutta & Mohan Kumar Sahoo, original R.S.D No. 1081114524 dated 03.06.2011 and Hal to Sabik co-relation in support of his claim.

The Averment of the counsel for the petitioner is that after the death of Sabik recorded tenant his legal heirs namely Lakshmipriya Dutta W/o- Late Manmath Kishore Dutta, Chandra churd Dutta, Sailendra Kishore Dutta, Nimai Kishore Dutta, Sankar Dutta all are S/o- Manmath Kishore Dutta, Sibani Dutta W/o- Late Bijay Kumar Dutta, Sidhanta Dutta (Minor) S/o- Late Bijay Kumar Dutta represented through its mother guardian Sibani Dutta, Mrs. Debajani Dey W/o- Dipak Kumar Dey & Mrs. Sunanda Dutta W/o- Sri Rasmi Ranjan Dutta both are D/o- Late Manmath Kishore Dutta had transferred with an area of Ac.1.257 dec out of Ac.1.410 dec from Sabik Plot No. 3597 under Sabik Khata No.791 of Mouza Gadakana in favour of petitioner Narayan Agencies and Estates PVT. LTD. through its M.D Sri Dillip Kumar Patra S/o- Late Suru Patra of Plot NO. 228, Bapuji Nagar, Ps- Capital, Bhubaneswar, Dist- Khurda vide R.S.D No. 1081114524 dated 03.06.2011.

Para-wise report has been received from ASO, Cuttack. As per report and Hal Sabik co-relation the Sabik Khata No. 791 containing Sabik Plot No. 3597(p) & Sabik Plot No. 3595 (p) of Mouza- Gadakan Ps- New Capital is corresponding to Hal Khata No. 1035 containing Hal plot No. 6849 area Ac.2.404 dec of Mouza Bhubaneswar Sahar Unit- 39 Gadakana Ps- New Capital.

Field inquiry report received from Tahasildar, Bhubaneswar which reveals that the petitioner is in peaceful possession over an area Ac.1.257 dec (as per his trace map attached) in Hal Plot No. 6849 with under Hal Khata No. 1035 of Mouza Bhubaneswar Sahar Unit- 39 Gadakan Ps- New Capital as per purchased from Sabik Plot No. 3597 under Sabik Khata No. 791.

Gone through the case record and documents filed by the counsel for the petitioner. From the above, it is clear that the title has rightly been transferred in the name of the petitioner; the petitioner has acquired right, title and interest over the suit land by virtue of RSD and possession.

In view of the above the claim of the petitioner in the petition merit consideration. Hence I am inclined to allow the Revision petition in favour of the petitioner

The Tahasildar, Bhubaneswar is directed to record with an area of Ac. 1.257 dec. out of Ac.2.405 dec (As per Sketch map attached R.S.D) from Hal Plot No. 6849 under Hal Khata No. 1035 of Mouza Bhubaneswar Sahar Unit- 39 Gadakan Ps- New Capital by creating separate Khata & plot in favour of present petitioner following due process of law.

True copy of order may be sent to Tahasildar, Bhubaneswar with a separate letter for information and necessary action.

Order pronounced in the open court today the 16th day of April 2021.

Sd/-
Addl. Commissioner,
Addl. Revisional Court, Bhubaneswar

RP Case No. 2303 OF 2014

Decided on 09.06.2021

(Order by Sri Pratap Chandra Rout, OAS (SAG),
Addl. Commissioner, Addl. Revisional Court No. II, Bhubaneswar)

Smt. Bidyulata Mallick ..... Petitioner
-Versus-
Tahasildar, Bhubaneswar & another ..... Opp. Parties

For Petitioner : Mr. D. K. Tripathy, Advocate

For Opposite Parties : Mr. S. K. Dash,
Addl. Standing Counsel

O R D E R

The petitioner had filed one petition U/s-15 (b) of O.S & S Act., 1958 with prayer to extract the reduce area of the suit plot and to correct the name of the petitioner as 'Bidyulata Mallick' in place of 'Bidyutlata Mallick' as per the R.S.D.

SCHEDULE OF PROPERTY

Mouza- Bhubaneswar Sahar, Unti No. 17 Nayapalli, Tahsil- Bhubaneswar,
PS- NewCapital, Dist. Khurda.

Sabik Khata No.	Sabik Plot No.	Area
81	1138	Ac.0.082 dec out of Ac.0.104 dec out of Ac.0.150 dec
Hal Khat No.	**Hal Plot No.**	**Area**
1771	298/3345298/3346	Ac.0.068 dec Ac.0.005 dec

Basing on the aforesaid petition of the petitioner one R.P. Case had been registered vide R.P case No. 2303/2014 and notices have been issued to opposite parties. The Additional Standing Counsel Mr. S. K Dash is represented for the State (Op. 1 & 2). Thus this case heard in presence of the counsel for the petitioner and the Additional Standing Counsel for the State.

The Hal ROR of Mouza Nayapalli had been finally published on 22.07.2014 and the revision petition had been filed on 17.12.2014.

The Counsel for the petitioner had submitted the certified copy of Sabik ROR bearing Khata No. 81 Sabik Plot No. 1138 of Mouza- Nayapalli Ps- New Capital which stands recorded in the name of Golakha Bhoi S/o- Baja Bhoi, certified copy of Hal ROR bearing Khata No.1771 Hal Plot No. 298/3345 Ac.0.068 dec & 298/3346 Ac.0.005 dec of Mouza- Nayapalli Ps- NewCapital which stands recorded in the name of Bidyutlata Mallick W/o- Muralidhar Mallick, Photo copy of R.S.D No. 12081 dated 27.12.1982, Photo copy of R.S.D No. 6382 dated 03.08.1985, Photo copy of R.S.D No. 3861 dated 29.05.1991, original R.S.D No. 4338 dated 30.07.1999 and Sabik to Hal Co-relation in support of his claim.

The averment of the counsel for the petitioner is that, the original Sabik recorded tenant Golakha Bhoi S/o- Baja Bhoi had transferred area of Ac.0.104 dec out of Ac.0.150 dec from Sabik Plot No. 1138 under Sabik Khata No. 81 of Mouza Nayapalli Ps- New Capital in favour of Kishore Chandra Mallick vide R.S.D No. 12081 dated 27.12.1982.

Subsequently, after the death of Kishore Chandra Mallick had transferred area of Ac.0.083 dec out of Ac.0.104 dec total out of Ac.0.150 dec from Sabik Plot No. 1138 under Sabik Khata No. 81 of Mouza Nayapalli Ps NewCapital in favour of Prahallad Singh S/o- Hadibandhu Singh vide R.S.D No. 6382 dated 03.08.1985.

Again Prahallad Singh S/o- Hadibandhu Singh had transferred area of Ac.0.082 dec out of Ac.0.104 dec total out of Ac.0.150 dec from Sabik Plot No. 1138 under Sabik Khata No. 81 of Mouza Nayapalli Ps NewCapital in favour of Bhubaneswari Maharana W/o- Harihar Maharana vide R.S.D No. 3861 dated 29.05.1991.

Subsequently, Bhubaneswari Maharana W/o- Harihar Maharana had transferred the same suit land in favour of present petitioner Bidyulata Mallick W/o- Muralidhar Mallick of Hasura Po- Andalipatana Ps- Rahama Dist- Jagatsinghapur vide R.S.D No. 4338 dated 30.07.1999.

In last settlement operation the Hal ROR prepared in the name of Bidyutlata Mallick bearing Hal khata No. 1771 Hal Plot No. 298/3345 areaAc.0.068 dec & Hal Plot No. 298/3346 area Ac.0.005 dec total area Ac.0.073 dec in place of Ac.0.082 dec as per purchase.

Para-wise report has been received from ASO, Cuttack. As per report and Sabik Hal co-relation the Sabik Plot No. 1138 under Sabik Khata No. 81 of Mouza- Nayapalli Ps- New Capital is corresponding to Hal plot No. 298/3345 area Ac.0.068 dec & Hal Plot No. 298/3346 area Ac.0.005 dec under Hal Khata No. 1771 of Mouza Nayapalli Ps- New Capiatal.

Field enquiry Status report received from Tahasildar, Bhubaneswar which is furnished by Revenue Inspector Capital - II. As per field verification report, the real area of Hal Plot No. 298/3345 is Ac.0.071 instead of Ac.0.068 dec & real area of Hal Plot No. 298/3346 is Ac.0.011 dec instead of Ac.0.005 dec where the petitioner is in possession over the land.

On perusal of the case record and available documents, I am of the opinion that the claim of petitioner merits consideration. Hence I am inclined to allow the prayer of the petitioner.

The Tahasildar, Bhubaneswar is directed to enhance the area of Hal Plot No. 298/3345 from Ac.0.068 to Ac.0.071 dec & Hal Plot No. 298/3346 from Ac.0.005 to Ac.0.011 dec in Hal Khata No. 1771 of Mouza Nayapalli Ps- NewCapital and change the name of petitioner 'Bidyulata Mallick' in place of 'Bidyutlata Mallick' following due process of law.

True copy of order may be sent to Tahasildar, Bhubaneswar with a separate letter for information and necessary action.

Order pronounced in the open court today the 09th day of June 2021.

Sd/-
Addl. Commissioner,
Addl. Revisional Court, Bhubaneswar

OSS Case No. 2967 OF 2016

Decided on 07.06.2021

(Order by Sri Biswanath Sahu, OAS (SAG),
Addl. Commissioner, Addl. Revisional Court No. I, Bhubaneswar)

Sri Bikash Ranjan Sahoo ..... Petitioner
-Versus-
Ambika Ray & others ..... Opp. Parties

For Petitioner : Mr. U. Barik, Advocate

For Opposite Party No. 1 : None

For Opposite Party No. 2 & 3 : Mr. Jagannath Rath,
Standing Counsel

C.R is taken up today.

Heard the Counsel for the petitioner Mr. Udhab Barik and Sri Jagannath Rath, Standing Counsel for O.P. No. 2 & 3. Petition under section 5 of the Limitation Act, 1963 for condonation of delay in filing the revision is taken up today. The grounds

taken therein in the limitation petition will be considered along with the merit of this case. Case is admitted.

On consent of both the parties this revision case is taken up today for consideration on merit.

The scheduled land is as follows :-

SCHEDULED OF LAND

Hal Mouza- Gothapatna, P.S- Chaandaka No.47, Tahasil-Bhubaneswar, Dist-Khordha, Hal Khata No. 441 Hal Plot No. 1223 Ac.0.100 dec., Hal Plot No. 1224 Ac.0.100 dec., Hal Plot No. 1225 Ac. 0.100 dec., Hal Plot No. 1226 Ac.0.100 dec and Hal Plot No. 1197 Ac. 1.070 dec.

Sabik Mouza- Gothapatna, Sabik Khata No. 134, Sabik Plot No. 46, Ac. 2.690 dec.

Mutation Khata No. 134/640, Mutation Plot No. 46/1034 Ac. 0.699 dec. (Purchased area Ac.0.699 dec)

The fact of the case as per the Revision petition are as follows:-

1. That, the land in question of Mouza-Gothapatna under Bhubaneswar Tahasil bearing Hal Khata No. 441 Hal Plot No. 1223, Ac.0.100 dec,Plot No.1224 Ac.0.100 dec, Plot No. 1225 Ac.0.100 dec., Plot No. 1226 Ac.0.100 dec., Plot No. 1197 Ac.1.070 dec corresponding to Sabik Khata No. 134 Plot No. 46 Ac.2.690 dec of land is the subject matter of the present proceeding / suit which comes under the jurisdiction of the Hon'ble Court. The Hal R.O.R & the Sabik R.O.R. are annexed as Annexure- 1 & 2 of this revision.

2. That the brief history of the case is that the suit property which is morefully described in the scheduled in the scheduled below in sabik i.e. Sabik Khata No. 134 Sabik Plot No. 46 Ac.2.690 dec. of land of Mouza-Gothapatna was stood recorded in the name of Bhimsen Das, S/o Jadumani Das. The said Bhimsen Das being the absolute rightful owner in peaceful possession over the suit land and he , for meeting of legal necessity sold an area of Ac.0.699 dec. of land. Out of Ac.2.690 deccc of land from sabik Plot No. 46 of Sabik Khata No. 134 infavour of Nrusingha Charan Samantray S/o:- Dhruba Charana Samantray and Ashok kumar Samantray, S/o Baidhar Samantray by executing one deed of sale vide RSD No. 6855 dtd. 08.08.86 and delivered possession with the knowledge of whole world and all concerned. It is stated that after purchase the above named purchasers mutated the purchased land in their favour and accordingly a new Batta Khata and Batta Plot vide Khata No. 176/140 and Batta Plot No. 46/1034 with area Ac. 0.699 dec. of land was created / opened in their names.

3. That stated that both the above named purchasers namely Nrusingha Charan Samantray and Ashok Kumar Samaantray being the owners in peaceful possession they for meeting of legal necessity made it into small sub-plots and thereafter sold

the above area of Ac.0.699 dec. of land of Sabik Plot No. 46/1034 in favour of five purchasers in five numbers of Regd. Sale Deeds i.e. an area of Ac.0.200 dec. out of Ac.0.699 dec. of Sabik Plot No. 46/1034 with sketch map coloured in red in favour of Sukirti Mohanty, D/o Dwaarikanath Mohanty vide R.S.D. No. 1023 dtd. 20.02.2001, an area of Ac. Ac.0.100 dec. out of Ac.0.699 dec. of Sabik Plot No. 46/1034 with sketch map coloured in Red marked as sub-plot No. 3 in favour of Aloka Mohanty, S/o Nirmala Chandra Mohanty vide R.S.D. No. 1024 dtd. 20.02.2001 an area of Ac. 0.099 dec. out of Ac.0.699 dec of sabik Plot No. 46/1034 with sketch map coloured in Red marked as Sub-Plot No.4 in favour of Debi Prasad Mohanty, S/o Kulamani Mohanty vide R.S.D. No. 1025 dtd. 20.02.2001 an area of Ac. 0.200 dec out of Ac. 0.699 dec. from sabik Plot No. 46/1034 with sketch map coloured in Red in favour of Prakirti Mohanty, D/o Dwarrikanath Mohanty vide R.S.D. No. 1026 dtd. 20.02.2001 and an area of Ac.0.100 dec out of Ac.0.699 dec. from sabik Plot No. 46/1034 with sketch map coloured in Red in favour of Himanshu Sekhar Pradhan, S/o Dhruba Charan Samantray vide R.S.D. No. 1231 dtd. 28.02.2001 and delivered possession. It is crystal cleared from the above transactions that the recorded tenant namely Nrusingha Charan Samantray and Ashok Kumar Samantray have sold their entire purchased area Ac..0.699 dec. of land infavour of the above five purchasers in five numbers of Regd. Sale Deeds.

4. That stated after passing of some days the above named purchaser Himanshu Sekhar Pradhan, S/o Dhruba Charan Samantray for meeting of legal necessity sold his purchased area Ac. 0.100 dec. of land of Sabik Plot No. 46/1034 in favour of Pramod Kumar Tripathy, S/o Gangadhar Tripathy vide R.S.D. No. 3743 dtd. 19.08.2002.

5. That stated that the other rest four purchasers for meeting of their legal necessity and benefit in one day sold their purchased area i.e. Sukirti Mohanty, D/o Dwarikanath Mohanty sold Ac. 0.200 dec of land of Sabik Plot No. 46/1034 in favour of Bikash Ranjan Sahoo, S/o Sasadhar Sahoo vide R.S.D. No. 3583 dtd. 12.05.2006, Aloka Mohanty, S/o Nirmal Chandra Mohanty through his G.P.A. Holder sold his Ac.0.100 dec of land of Sabik Plot No. 46/1034 infavour of Bikas Ranjan Sahoo, S/o Sasadhar Sahoo vide R.S.D. No. 3585 dtd. 12.05.2006 i.e. Prakirti Mohanty, D/o Dwarikanath Mohanty sold her Ac.0.200 dec of land of Sabik Plot No. 46/1034 in favour of Bikash Ranjan Sahoo, S/o Sasadhar Sahoo vide R.S.D No. 3584 dtd. 12.05.2006,Devi Prasad Mohanty S/o-Kulamani Mohanty sold Ac.0.99 decimals vide R.S.D No.3577 dtd. 12.05.2006 and delivered possession. It is crystal clear from the above four numbers of transactions that the purchaser Bikash Ranjan Sahoo, S/o Sasadhar Sahoo purchased an area Ac. 0.599 dec of land from the above 4 numbers of vendors who purchased the same from the recorded tenant in one day in 4 numbers of Regd. Sale Deeds. It is stated that again the said Bikash Ranjan Sahoo, S/o Sasadhar Sahoo purchased the rest area of Ac.0.100 dec of land of Sabik Plot No. 46/1034 from Pramod Kumar Tripathy, S/o Gangadhar Tripathy vide R.S.D. No. 8003 dtd. 14.09.2007 who purchased the same from Himanshu Sekhar

Pradhan, S/o Dhruba Charan Samantray who purchased the same from the recorded tenant Nrusingha Charan Samantray and Ashok Kumar Samantray. It is very much clear from the above transactions that the petitioner Bikash Ranjan Sahoo, S/o Sasadhar Sahoo has all in total purchased the area of Ac.0.699 dec of land of sabik Plot No. 46/1034 in 5 numbers of Regd. Sale Deeds and got delivery of possession. Since the date of purchase till today the petitioner has been in peaceful possession over the suit schedule land without interruption or facing any trouble from any corner. The R.S.D. No. 6855 dtd. 08.08.1986, R.S.D. No. 1023 dtd. 20.02.2001, R.S.D. No. 1024 dtd. 20.02.2001, R.S.D. No. 1025 dtd. 20.02.2001, R.S.D. No. 1026 dtd. 20.02.2001, R.S.D. No. 1231 dtd. 28.02.2001, R.S.D. No. 3743 dtd. 19.08.2002, R.S.D. No. 3583 dtd. 12.05.2006, R.S.D. No. 3585 dtd. 12.05.2006, R.S.D. No. 3577 dtd. 12.05.2006, R.S.D. No. 3584 dtd, 12.05.2006, R.S.D. No. 8003 dtd. 14.09.2007 are annexed herewith as **Annexure- 3 to 14**.

6. That, during current settlement operation the petitioner for recording of the purchased area of Ac.0.699 dec. of land in his favour filed one objection case vide No. 2653/12 before the officer-in-camp i.e. A.S.O. who passed order for present field possession regarding the possession of the parties in field. It is stated that as per order of A.S.O. the Amin deputed spot visit, submitted his report stating therein that the petitioner has been in possession of the purchased area of Ac.0.699 dec. of land in field and further submitted his report to prepare record for Hal Plot No. 1223, 1224, 1225, 1226 and 1197 in his favour as per purchase.

7. That stated that however the Learned A.S.O. after going through the Amin report regarding possession of the petitioner alongwith being satisfied on flow of title on sale deeds assured the petitioner to prepare the record for the suit land in his favour correctly and accordingly passed order that the transfer of the property in favour of the objector is legal. The learned A.S.O has also passed order that as the petitioner is found in possession over the suit land as per Amin report the prayer for mutation of the petitioner / objector is allowed.

8. That stated that even though order was passed by the A.S.O. the same was not complied by the order complying staffs and accordingly the Hal Plot No. 1223, 1224, 1225, 1226 and 1197 has again been prepared / recorded and published in the name of the original sabik recorded tenant namely Bhimsen Das, S/o Jadumani Das. Hence the settlement authorities without honouring and complying the order passed by the A.S.O by the order complying staffs in objection case is wrong, illegal, baseless, contrary to law and liable to be set-aside.

9. That, at the time of distribution of Hal R.O.R. the petitioner being deprived of getting his patta inquired about the matter then and then it is brought to his knowledge from settlement people that though order was passed to prepare the Hal record in his favour / name basing upon the order in objection case No. 2653/2012 the same was not complied by the order complying staffs and accordingly his land has now

been recorded in his vendor's vendor name i.e. in the name of Bhimsen Das, S/o Jadumani Das the original Sabik recorded tenant. Thus the matrix of event leads to this case.

10. That stated that as per purchased and possession the petitioner is entitled to get his purchased area of Ac.0.699 dec of land from 5 Hal Plots i.e. the area of Ac.0.100 dec of Hal Plot No. 1223, the full area Ac.0.100 dec. of Hal Plot No. 1224, the area of Ac.0.100 dec. of Hal Plot No. 1225, the area of Ac.0.100 dec. of Hal Plot No. 1226, and the rest area of Ac.0.299 dec. of land from Hal Plot No. 1197. The petitioner getting such information from Settlement people at first approached the Tahasildar to mutate the case land in his favour who refused to do for want of jurisdiction. The petitioner getting no result in Tahasildar Office collected documents and accordingly files this revision. The present revision filed by the petitioner is barred by general and special principle of law of limitation and for condonation of delay has filed a separate petition and for condonation of delay has filed a separate petition in accompany with this revision.

11. That, the present Opp. Party No.1 has been arrayed as Opp. Party to this case being the LRS of the Hal recorded tenant the deceased Bhimsen Das, S/o Jadumani Das. She has no manner any right, title and interest over the suit land as the suit land was sold the by her father in favour of the petitioner. Hence her name / father's name is required to be deleted from the suit land.

The prayer of the petitioner in the revision is as follows:-

12. Your honour may graciously be pleased to admit the revision, call for LCR and after hearing from both the parties allow the claims of the petitioner mentioned above also as follows;

Pass order to record the suit land i.e. the full area of Hal Plot No. 1223, 1224, 1225, 1226 and an area of Ac.0.299 dec. out of Ac.1.070 dec. of land from Hal Plot No. 1197 in the name of the petitioner in a separate R.O.R. on the basis of Regd. Sale Deed and longstanding possession.

13. Heard the learned Counsel for the petitioner and the Standing Counsel. Gone through the documents and reports available in the case record. Perused the Sabik and Hal status submitted by the Assistant Settlement Officer, Record Room, Cuttack and the field enquiry report of Tahasildar, Bhubaneswar. It is seen that the petitioner Bikash Ranjan Sahoo having purchased the case land from the recorded owner has in fact stepped into the shoes of the vendor U/s 54 of the T.P. Act. The petitioner is also found to be in peaceful possession over the case land as revealed from the status report submitted by the Tahasildar, Bhubaneswar. The flow of title of the case land is established in favour of the petitioner. The suit land therefore, needs to be recorded exclusively in favor of the petitioner over the purchased area of the case land in a separate Hal Khata under 'Sthitiban' status.

It is seen that the Learned ASO has rightly passed order basing on the Amin's report in his objection case no 2653/12.But the order complying staff have failed to comply the order of ASO.

14. Hence the revision is allowed in favor of the petitioner.

15. The Tahasildar Bhubaneswar is directed to record the suit land i.e. the full area of Hal Plot No.1223, Ac.0.100 dec,Plot No.1224 Ac.0.100 dec, Plot No. 1225 Ac.0.100 dec., Plot No. 1226 Ac.0.100 dec and an area of Ac.0.299 dec. out of Ac.1.070 dec. of land from Hal Plot No. 1197 in the name of the petitioner in a separate R.O.R. on the basis of Regd. Sale Deed and longstanding possession.

16. Send a copy of the order to the Tahasildar, Bhubaneswar for necessary compliance within a period of 2 (two) months from the date of receipt of the copy of the order.

17. Original/Certified copy of documents filed if any be returned to the petitioner by keeping photocopy of the same in the case record.

Pronounced the Order in the open court today i.e. on the 7th day of June , 2021

Sd/-
Addl. Commissioner,
Addl. Revisional Court, Bhubaneswar

RP Case No. 313 OF 2017

Decided on 28.09.2021

(Order by Secretary to Revenue Divisional Commissioner (C.D.), Cuttack)

Pramod Kumar Panda ..... Petitioner
-Versus-
Krutibasa Giri & others ..... Opp. Parties &
Proforma Opposite Parties

O R D E R

This case is put up today through virtual mode. The Petitioner has prayed U/S- 15(b) of OS&S Act, 1958 to direct the Tahasildar, Saraskana for recording the suit land in favour of the Petitioner as per purchase and possession.

Schedule of Land

Mauza- Sankucha P.S.-Jharpokharia Tahasil- Saraskana Dist- Mayurbhanj
Sabik Khata- 202/4/193 Sabak Plot- 51/2177 Area- Ac 0.33 dec out of Ac 0.63 dec
Sabak Plot- 51 Area- Ac 0.30 dec out of Ac 0.45 dec
Total- Ac 0.63 dec
Hal Khata- 370 Hal Plot- 45 Kissam- Sarada III Area- Ac 0.67dec

Perused the petition for condonation of delay in filing this revision petition. The delay is hereby condoned and the revision petition is admitted. Notice duly

served. S.R. back. The Advocate for the Petitioner is Present. The OPs areabsent on call & notice.

As per the Petition the learned Counsel for the Petitioner contended that suit hal plot No. 45 correspond to Sabik Plot No. 51 part and Sabik Plot No. 51/2177 part. The Sabik Plots stood recorded in favour of Sadhu Charan Giri S/O- Atanga Giri. Vide Registered Exchange Deed No. 629 dt 01.03.1956, Suresh Chandra Panda S/O- Trilochan Panda, Chittaranjan Panda S/O- Girish Chandra Panda, Manoranjan Panda (minor Mother guardian Labanya Dibya W/O- Girish Chandra Panda) as first party and Sadhu Charan Giri S/O- Atangai Giri as second party. The first party got the "Kha" land schedule of second party i.e. Sabik Khata No. 202/4/193 Sabik Plot No. 51 Area- Ac 0.50 dec and Sabik Plot No. 51/1177 Area- Ac 0.43 dec of Mauza- Sankucha. The Sabik Plot 51/2177 was wrongly recorded as 51/1177 which is of area- Ac 0.16 dec only. As per Partition Deed executed vide No. 634 dt 01.03.1956, Suresh Chandra Panda S/O- Trilochan Panda being the first party got Sabik Plot No. 51 & 51/2177 in his share. The present Petitioner along with Proforma OP No.s 8 to 10 purchased the suit land from Suresh Chandra Panda S/O- Trilochan Panda vide RSD No. 1278 dt 01.03.1978. During Hal Settlement Operation the Settlement Authorities have erroneously recorded the corresponding Hal Plot in favour of Sudam Giri (deceased father of OP NO. 1 & 2) and Bhubaneswar Giri (deceased father of OP No. 3 to 6) S/O- Prahallad Giri. Hence this revision case is filed for correction of R.o.R.

While verifying the case record it is found that the documents relied by the Petitioner are copy of Registered Exchange Deed No. 629 dt 01.03.1956, Registered Partition Deed No. 634 dt 01.03.1956, RSD No. 1278 dt 01.03.1978,Hal Khata No. 370, Plot index of Sabik Plot 51, 51/1177 & 51/2177 Mauza- Sankucha. While going through the RSD No. 1278 dt 01.03.1978, it is ascertained that Pramod Kumar Panda, Pradip Kumar Panda, Pradyumna Panda, Pranaya Kumar Panda all S/O- Antaryami Panda (Petitioner and Proforma OPs) Caste- Brahmin of Sankucha have purchased the suit land measuring Ac 0.63 dec (Total) from Suresh Chandra Panda S/O- Trilochan Panda Caste- Brahmin of Sankucha mentioning the Sabik Khata No. 202/4/193, Sabik Plot No. 51 & 51/2177. As per Sabik records the Sabik Khata No. 202/4/193 was recorded in favour of Sudam Chandra Giri S/O- Atanga Giri of Sankucha. As per the Petitioner's written notes, it is seen that Sabik RT had exchanged the suit land (Sabik Plot No. 51 & 51/2177 wrongly written as 51/1177) with Suresh Chandra Panda S/O- Trilochan Panda, Chittaranjan Panda S/O- Girish Chandra Panda, Manoranjan Panda (minor Mother guardian Labanya Dibya W/O- Girish Chandra Panda) vide Registered Exchange Deed No. 629 dt 01.03.1956. As per the Sabik Khata No. 93/4/83, Sabik Plot No. 1177 (Ac 0.16 dec) is recorded in favour of Naran Deo & others. It seems as if Plot No. 51/2177 has been wrongly written as 51/1177 due to clerical error.Again vide Registered Partition Deed No. 634 dt 01.03.1956, the suit plot fell with the share of Suresh Chandra Panda S/O- Trilochan Panda. The Sabik Plot No. 51 & 51/2177 Sabik Khata No. 202/4/193

correspond to Hal Plot No. 54 Hal Khata No. 370 of Mauza- Sankucha. On verification the Hal Khata 370 is recorded in favour of Sudam Giri (deceased father of OP NO. 1 & 2) and Bhubaneswar Giri (deceased father of OP No. 3 to 6) S/O- Prahallad Giri. The Tahsildar, Saraskana has also confirmed the discussed Hal Sabik Co-relation as above vide Letter No. 209 dt 19.01.2021. He has also reported that Petitioner, Proforma OPs &Prativa Das, Shephali Mohapatra D/O- Antarjyami Panda are in possession of the suit plot.

The flow of right, title and interest from vendor to vendees is justified on basis of the furnished RSD & other executed Registered Deeds. The OPs have also not raised any objection to the claim of the Petitioner. Hence the prayer of the Petitioner is allowed.

In consideration of the above facts and circumstances stated above, the Tahasildar, Saraskana is directed torecord the suit land in favour of Petitioner and Proforma OPs as per purchase and possession in a separate Khata and correct the ROR accordingly. The orders above has to be carried out within a period of three months from the date of receiving this order.

Order pronounced in the open Court today.

Accordingly, this case is disposed of.

Sd/-
Secretary to RDC

RP Case No. 251 OF 2017

Decided on 21.09.2021

(Order by Secretary to Revenue Divisional Commissioner (C.D.), Cuttack)

Rabinarayan Das ..... Petitioner
-Versus-
Upendra Mohanta & others ..... Opp. Parties

O R D E R

This case is put up today through virtual mode. The Petitioner has prayed U/S- 15(b) of OS&S Act, 1958 to direct the Tahasild ar, Betnoti for correcting the ROR of the suit land in favour of the Petitioner on the strength ofpurchase & possession.

Schedule of Land

Mauza- Santara P.S.-Baisinga Tahasil- Betnoti Dist- Mayurbhanj

Sabik Khata- 205 Sabak Plot- 910 Area- Ac 1.50 dec

Hal Khata- 329 Hal Plot- 1107 Kissam- S.A.J.S I Area- Ac 1.26dec

Perused the petition for condonation of delay in filing this revision petition. The delay is hereby condoned and the revision petition is admitted. Notice duly served. S.R. back. The Advocate for the Petitioner and OP are absent. The case is decided on merit of the petition.

As per Petition the learned Counsel for the Petitioner contended that the suit land was purchased by Petitioner as Marfatdar of Sri Sr Laxminarayan Bije Jugupur from Radhakrushna Mohapatra S/O- Rama Chandra Mohapatra (father of OP No. 5 to 8 & husband of OP No. 9) vide RSD No. 213 dt 25.02.2000 mentioning Sabik Khata No. 205 Sabik Plot No. 910 Area- Ac 1.50 dec. The Petitioner has approached the Hon'ble High Court vide WP (C) No. 20846/2016 in which it was ordered that the Petitioner may take resort of a proceeding under the OSS Act, 1958. During Consolidation Operation all landed properties of Rama Chandra Mohapatra are partitioned among all three legal heirs Radhakrushna, Harishchandra and Achyutananda (OP No. 3 & 4).The suit land was recorded in favour of Harishchandra Mohapatra S/O- Lt Rama Chandra Mohapatra (OP No. 4)vide Hal Khata No. 329 Hal Plot No 1107. Hence, this revision case is filed for correction of R.o.R.

While verifying the case record it is found that the documents relied by the Petitioner are copy of RSD No. 213 dt 25.02.2000,plot index of Sabik Plot- 910, Hal Khata No. 329 Mauza- Santara. While going through the RSD No. 213 dt 25.02.2000, it is ascertained that Radhakrushna Mohapatra S/O- Rama Chandra Mohapatra Caste- Brahmin of Santara had sold the suit land of area- Ac 1.50 dec in favour of Petitioner as Marfatdar of Sri Sri Laxminarayan Bije Jugupur Caste- Napita of Jugupura bearing Sabak Plot No. 910 Sabak Khata No. 205.As per the Hal Sabik Co-relation Sabik Plot No. 910 corresspond to Hal Plot No. 1107 of Mauza- Santara. The Hal Plot No. 1107 is also recorded in favour of OP No. 4.The Tahasildar, Betnoti has confirmed the above Hal Sabik Co-relation and reported that the Petitioner is in possession of the suit land vide Letter No. 2318 dt 11.06.2021.

The Petitioner has legally purchased the suit land through a valid RSD much prior to the partition of the landed properties. The flow of right, title and interest from vendor to vendee is thus justified on basis of the RSD. The OPs have also not raised any objection to the claim of the Petitioner. Hence the prayer of the Petitioner is allowed to an extent of Ac 1.26 dec (as prayed) from Hal Plot No. 1107.

In consideration of the above facts, circumstances & observations stated above, the Tahasildar, Betnoti is directed torecord the suit land in favour of the Petitioner in a separate Khata as per purchase and possession & correct the ROR accordingly within a period of three months from the date of receiving this order.

Order pronounced in the open Court today.

Accordingly, this case is disposed of.

Sd/-
Secretary to RDC

RP Case No. 121 OF 2019

Decided on 31.08.2021

(Order by Secretary to Revenue Divisional Commissioner (C.D.), Cuttack)

Rai Mohan Mohanta & another ..... Petitioner

-Versus-

Settlement Officer, Balasore & others ..... Opp. Parties

O R D E R

This case is put up today through virtual mode. The Petitioner has prayed U/S- 15(b) of OS&S Act, 1958 to direct the Tahasildar, Kuliana for correcting the ROR of the suit land in favour of the Petitioners on the strength of purchase & possession.

Schedule of Land

Mauza- Kanjia P.S.- Kuliana Tahasil- Kuliana Dist- Mayurbhanj

Sabik Khata- 68 Sabak Plot- 261 Area- Ac 0.10 dec

Sabak Plot- 262/713 Area- Ac 0.07 dec

Sabak Plot- 262/714 Area- Ac 0.23 dec

Sabak Plot- 275/718 Area- Ac 0.24 dec

Sabak Plot- 285/711 Area- Ac 0.04 dec

Sabak Plot- 286/715 Area- Ac 0.09 dec

Sabak Plot- 289 Area- Ac 0.27 dec

Total- Ac 1.04 dec

Hal Khata- 13 Hal Plot- 692 Area- Ac 0.12 dec

Hal Plot- 690 Area- Ac 0.06 dec

Hal Plot- 721 Area- Ac 0.21 dec

Hal Plot- 698 Area- Ac 0.26 dec

Hal Plot- 703 Area- Ac 0.04 dec

Hal Plot- 710 Area- Ac 0.08 dec

Hal Plot- 712 Area- Ac 0.21 dec

Total- Ac 0.98 dec

Perused the petition for condonation of delay in filing this revision petition. The delay is hereby condoned and the revision petition is admitted. Notice duly

served. S.R. back. The Advocate for the Petitioners is present. The OPs are absent on call & notice.

The learned Counsel for the Petitioner contended that the suit land was purchased by Petitioners from Gobinda Chandra Pal Babu S/O- Lt Nanda Pal Babu (father of OP No. 3) vide RSD No. 213 dt 23.01.1984 mentioning Sabak Khata No. 68 Sabak Plot No. 261, 262/713, 262/714, 275/718, 285/711, 286/715 & 289 Total Area- Ac 1.04 dec. During Settlement Operation the suit land was recorded in favour of the vendor, vide Hal ROR No. 13 Hal Plot No. 692, 690, 721, 698, 703, 710 & 712 Total Area- Ac 0.98 dec. Hence, this revision case is filed for correction of R.o.R.

While verifying the case record it is found that the documents relied by the Petitioner are copy of RSD No. 213 dt 23.01.1984, plot index of Sabik Plot- 261, 262/713, 262/714, 275/718, 285/711, 286/715 & 289, Hal Khata No. 13 Mauza- Kanjia. While going through the RSD No. 213 dt 23.01.1984, it is ascertained that Gobinda Chandra Pal Babu S/O- Lt Nanda Pal Babu (father of OP No. 3) Caste- Khatriya of Satapautia had sold the suit land in favour of Petitioners Rai Mohan Mohanta & Dhrubaraj Mohanta Caste- Kudumi of Kanjia bearing Sabak Plot No. 261, 262/713, 262/714, 275/718, 285/711, 286/715 & 289 Sabak Khata No. 68. As per the Hal Sabik Co-relation the Sabik Plot No. 261, 262/713, 262/714, 275/718, 285/711, 286/715 & 289 Sabik Khata No. 68 correspond to Hal Plot No. 692, 690, 721, 698, 703, 710 & 712 Hal ROR No. 13 of Mauza- Kanjia. It is also seen that the Hal R.o.R. No. 13 stands recorded in the name of vendor. The Tahasildar, Kuliana vide Letter No. 1292/2021 dt 13.05.2021 has confirmed the above Hal Sabik Co-relation and reported that the Petitioners are in possession of the suit land.

The flow of right, title and interest from vendor to vendees is justified. The OPs have also not raised any objection to the claim of the Petitioners. Hence the prayer of the Petitioner is allowed for total area of Ac 0.98 dec.

In consideration of the above facts and circumstances stated above, the Tahasildar, Kuliana is directed to record the suit lands in favour of the Petitioners in a separate Khata as per purchase and possession accordingly within a period of three months from the date of receiving this order.

Order pronounced in the open Court today.

Accordingly, this case is disposed of.

Sd/-
Secretary to RDC

R.C. Case No. 134 to 150 of 2013

Decided on 06.08.2021

(Order by Revenue Divisional Commissioner (C.D.), Cuttack)

Padmalochan Barik & others ..... Petitioner
-Versus-
Madhusudan Barik & others ..... Opp. Parties

O R D E R

These cases having common subject matter and parties were heard in the lower court analogously, are put up today through virtual mode. The revision case no.s 134 to 150 of 2013 are heard and taken up together for final order. The Petitioners have prayed U/S- 36 of OCH & PFL Act, 1972 (shortly referred as 'Act') to call for the LCR from the court below and after hearing, may set aside the order passed by lower court.

Schedule of Land

Mauza- Bhalia P.S.- Betnoti Tehsil- Betnoti Dist- Mayurbhanj

LR Khata No. 261 LR Plot No. 1475, 1457, 1459, 1188, 1189, 1459, 1454, 1459/1961, 1602, 1451, 1462, 773, 1361, 1451, 1455, 1459

LR Khata No. 350 LR Plot No. 728/2100

LR Khata No. 352 LR Plot No. 485

LR Khata No. 355

LR Khata No. 357 LR Plot No. 1609/2133, 728/2101, 398/2009

LR Khata No.358 LR Plot No.1393, 1393/2010, 1398/2007, 1398/2024, 1398/2006

LR Khata No. 359 LR Plot No. 1399

LR Khata No. 360 LR Plot No. 1399/2005, 1459/2022

LR Khata No. 361 LR Plot No. 1400, 1400/2126, 1412/2125, 1459/2128

The legal representative of the petitioner is present today. SR is back and the opposite parties are also present on call.

The learned Counsel for the petitioners contended that they have preferred this revision against order dated 30.03.2013 of the Court of Deputy Director of Consolidation of Holding, Baripada in Consolidation Appeal No. 64/2001 (B). The petitioners are the sons, daughters, nephew of the aforesaid RT Madhusudan Barik (OP No. 1). The plots in question are the ancestral properties of one Durga Prasad Barik. After death of him, his only son Madhusudan Barik (OP No. 1) addicted with Ganja & anti social persons have sold the ancestral properties of the petitioners without any necessity and knowledge of the petitioners. The petitioners have filed the objection before the Consolidation Officer at Betnoti, which has not been

considered with merit and facts. The petitioners have filed an appeal before the Deputy Director Consolidation of Holding, Baripada who had passed the order on 30.03.2013. The petitioners have challenged the impugned order of the lower court on basis of following grounds:

1) The learned lower court has not considered the case properly and passed the order abruptly.

2) The order passed by the lower court is one sided, arbitrary, wrong & against the principle of law and equity.

3) That the lower court has not properly considered the ground no. 1 on Durga Prasad Barik being the common ancestor of the petitioners and respondents. As per Hindu law (Succession Act 1954) the petitioners entitled to get share of their ancestral property. But the lower court without verifying documents has dismissed the appeal illegally.

4) The lower court has not considered the issue properly. As per section 271 (3) & (4) of the Hindu Law (Mulla) limitation against an elder son who was a major at the date of alienation by father/ co sharers does not put a bar against younger son who was then a minor and bring a suit for setting aside the alienation.

5) The lower court has also not considered the issue no. 3 U/S 244 (Hindu Law) Mulla, as per the decision on AIR 2004 (Karnataka 450).

Hence the petitioners pray to call for LCR from the court below and after hearing both the sides may set aside the order passed by the lower court.

The Respondents No. 2 to 9 & 15 to 41 have also submitted their WNA challenging the petition of the petitioners and stated that originally 22 appeals filed U/S- 12 of the Act against the order passed by Consolidation Officer, Baisinga, Dt 03.07.2001. A common order was passed by the learned Deputy Director Consolidation of Holding, Baripada in his order dt 30.03.2013. It is an admitted fact that the land in dispute originally belong to one Durga Prasad Barik, who had two wives. He had two sons named as Madhusudan and Dinabandhu through his second wife Srimati. While Dinabandhu died without any issue, the other son Madhusudan sold the suit lands to the OPs through RSDs.

The disputes raised by the petitioners are that the sons & daughters of Madhusudan claim that he has no absolute title over the property left by Durga Prasad as they accrue their share under Hindu Succession Act 1956 as Durga Prasad has died in 1961. Secondly Madhusudan Barik was addicted to Ganja and Opium and there was no legal necessities to sale the suit lands to the OPs.

On the other side the OPs claim that the petitioners are not entitled to any share of land left by Durga Prasad who had died in 1955 by which the Hindu

Succession Act 1956 had not come into force. The petitioners have no locus standi to file the revision cases. Secondly the son of Durga Prasad namely Madhusudan was not addicted to Ganja or Opium and has sold the lands for necessity and the OPs are bona fide purchasers of the suit lands acquiring full right, title and interest over them respectively.

In a detailed discussion the learned Consolidation Officer has given his view vide order dt 03.07.2001 that " Basing on the above discussion of law, facts, examination of witnesses, arguments, filling of documents and perusal of them, I am of the view that all purchasers have proved sale deeds, possession, rent receipts and they have proved that they are the real purchasers of the land in question. In case of all other purchasers, the purchasers and in their behalf close relatives have been examined in the given case. "

In the conclusion the learned Consolidation Officer has given his findings that every purchaser is a bona fide purchasers for consideration and is in possession over the purchased land since the date of his/her purchase and thereby acquiring right, title and interest over the land by virtue of respective sale deeds and alternatively each has acquired the right, title and interest over the land by way of adverse possession for possession more than 12 years peacefully, openly and to the knowledge of all including the objector.

Basing on the above conclusion of the Consolidation Officer in the case, the Deputy Director Consolidation of Holding, Baripada has submitted his views vide order dt 30.03.2013 that " On detail perusal of the case records I am come to the findings that there are so many purchasers purchased the lands from Madhusudan Barik (respondent No. 1 in all the Appeals) and are in peaceful possession since the date of purchase with knowledge of all.

Secondly, regarding the period of death of RT Durga Prasad Barik, his son Madhusudan Barik (respondent No. 1) himself clearly stated in the RSD No. 2709 dt 10.12.1973 that his father Durga Prasad Barik died 18 years back. Accordingly it can be concluded that late Durga Prasad Barik the father of Madhusudan Barik (respondent No. 1) died before the Hindu Succession Act 1956 come into force. Hence as per law, the daughters of deceased Durga Prasad Barik are not entitled to succeed to the property left by him as the Hindu Succession Act 1956 came in to force with effect from 17.06.1956.

Hence in careful consideration in my opinion the learned Consolidation Officer in his observation in the impugned order has analysed the matter taking into consideration of the cases. He has discussed in details in respect of all the cases correctly. The appellants have not brought forth any justification in favour of their claims. The learned Consolidation Officer, Baisinga has discussed the cases at length in all the issues along with points and answered them correctly and has passed the judicious order as per u/s 11 of the Act.

Therefore, in the circumstances contentious of the appellants are not convincing for intervention in the impugned order. In the result the appeals bearing No. 64/01 (B) to 85/01/ (B) are disallowed and the learned lower court order is upheld accordingly. "

Perused the LCRs and gone through the detailed order of Deputy Director Consolidation & Holding, Baripada and other documents in the case record. He and the Consolidation Officer, Baisinga have heard the matter at length giving due opportunity to both the parties to represent their respective arguments along with examining the witnesses. The petitioners have submitted five grounds in justification to their submissions. After going through the case records of lower courts I opine that both the Consolidation Officer, Baisinga & Deputy Director Consolidation of Holding, Baripada have heard the parties at length with examining the witnesses wherever it is required. This counters the first two grounds submitted by the petitioners.

Regarding the rest grounds of the petitioners, it is opined that Madhusudan Barik has sold the case lands to the Opposite Parties through various Registered Sale Deeds. In this regard it is to be emphasized that once a sale deed is registered under Registration Act, 1908, the sale deed remains valid in the eye of law unless and until the same is termed void/ cancelled by the competent forum. The petitioners have not challenged the Registered Sale Deeds in any appropriate forum for which the deeds stand valid boiling down to the conclusion that the transactions carried out by Madhusudan Barik are genuine.

The purchasers/OPs are also in peaceful possession over the suit lands since the purchase without any objection from any side.

Secondly, Madhusudan Barik has committed in the RSD No. 2709 dt 10.12.1973 that his father who is Durga Prasad Barik has died 18 years before concluding his year of death to be 1954/55. Hence Madhusudan Barik being the Karta inherits the right, title and interest over the parental properties of his father excluding the daughters as per the Hindu Succession Act 1956.

Therefore in the instant cases I find that both Consolidation Officer, Baisinga and Deputy Director Consolidation of Holding, Baripada have rightly deliberated the matter taking into consideration all the facts submitted by both the parties. They have judiciously passed the orders after discussing all the relevant factors u/s 11 & 12 of the Act.

So the order of Deputy Director Consolidation of Holding, Baripada is upheld and the Revision Case No.s 134 to 150 of 2013 are dismissed lacking merit.

Order pronounced in the open Court today.

Accordingly, this cases are disposed of.

Sd/-
Revenue Divisional Commissioner

S.R.P. Case No. 07 OF 2018

Decided on 28.05.2019

(Order by Shri Manish Agarwal, IAS,
Collector and District Magistrate, Malkangiri)

Smt. Mohinibai Jain ..... Petitioner
-Versus-
Tahasildar, Malkangiri & another ..... Opp. Parties

For the Petitioner ... Sri R.K. Patra, Advocate
For the Opposite party ... None

JUDGMENT

The revision petition has been filed by the petitioner U/S 15 (b) of the Orissa Survey & Settlement Act, 1958 (in short OSS Act.) being aggrieved by the order passed by the Addl. Sub-Collector-Cu,- Charge Officer, Settlement Officer, Jeypore.

The Claim of the petitioner is that she has got landed property stands recorded in her name in Mouza- Malkangiri vide Khata No. 532 to an extent of Hc. 0.004. But, during the last settlement operation her name has been wrongly recorded as Mohini Bai Charadia, W/o- Rawalmal Charadia instead of Mohini Bai Jain, W/o- Rawalmal Jain, so the petitioner is put to severe hardship.

In support of her claim, the petitioner has filed the following documents,

1. Copy of ROR of Khata No. 532 of Malkangiri Mouza with name recorded as Mohini Bai Charadia, W/o- Rawalmal Charadia Caste Jain of Malkangiri.
2. Copy of ROR of Khata No. 994/2095 of Mouza Malkangiri with name recorded as Mohini Bai Jain, W/o- Rawalmal Jain, Caste Jain of Malkangiri.
3. Copy of Voter Identify card bearing No. OR13/086/101222 with name Mohini Bai Jain, W/o- Rawalmal Jain.

The Addl. Sub-Collector, Settlement Officer, Jeypore has submitted the Parawise Comments vide Letter No. 93, dated 03.02.2017 of his office and the Tahasildar, Malkangiri has submitted the field enquiry report vide Letter No. 3108, dated 12.11.2018 of his office.

Heard the learned advocate for the petitioner. Perused the documents filed by the petitioner and the PWC submitted by the respondent No. 02 as well as the

field enquiry report submitted by the respondent No. 01. The matter is taken up for decision basing on the documents available & hearing.

FINDINGS

In this context, it is seen that under section 15 of OSS Act, 1958, the revisional power may be exercised for revision of any record of right or any portion of a record of right after one year or there after, but not to affect any order passed by the Civil Court under section 42.

The petitioner has filed a revision petition for correction of name in the ROR of Khata No. 532 of Mouza Malkangiri and the suit land falls within the jurisdiction of this Court.

It is revealed from the PWC submitted by the respondent No. 02 and field enquiry report submitted by the respondent No. 01 that during the last settlement operation the name of the petitioner has been incorrectly recorded as Mohini Bai Charadia, W/o- Rawalmal Charadia instead of Mohini Bai Jain, W/o- Rawalmal Jain in ROR of Khata No. 532 of Mouza Malkangiri.

All these lead to the conclusion that the name of the tenant was wrongly recorded as mistake of Settlement authority.

ORDER

Hence, it is ordered that the name entry as Mohini Bai Charadia, W/o- Rawalmal Charadia, the recorded tenant be corrected as Mohini Bai Jain, W/o- Rawalmal Jain in the ROR of Khata No. 532 of Mouza Malkangiri maintained at record room, Tehsil Office, Malkangiri by the Tahasildar, Malkangiri-cum- respondent No. 01 and report compliance within a month.

As the mistake of the settlement authorities in recording name in the ROR is being corrected now, so the concerned ROR copy available at Dist. Record Room, Malkangiri with wrong entry of name be treated as modified for all purposes as that copy is not meant for correction but maintained as a true copy of the record of records, finally published by the Settlement authorities at the time of Publication.

The revision is allowed.

Pronounced in the open Court today i.e. 28.05.2019.

Sd/-
Revisional Authority and Collector,
Malkangiri

S.R.P. Case No. 09 OF 2018

Decided on 22.11.2019

(Order by Shri Manish Agarwal, IAS,
Collector and District Magistrate, Malkangiri)

Sri J. Govinda Rao ..... Petitioner
-Versus-
Tahasildar, Malkangiri & others ..... Opp. Parties

For the Petitioner ... Sri Guru Mohanty, Advocate
For the Opposite party ... None

JUDGMENT

FACTS OF THE CASE :

The revision petition has been filed by the petitioner U/S 15 (b) of the Orissa Survey & Settlement Act, 1958 (in short OSS Act.) being aggrieved by the order passed by the Addl. Sub-Collector-Cum - Charge Officer, Settlement Office, Jeypur.

The Claim of the petitioner is that the petitioner Sri. J.Govinda Rao S/O J. Bhaskar Rao of Malkangiri had purchased a piece of land under Mouza Malkangiri bearing Khata No.337/9 Plot No. 663 measuring Ac 1.62 (Hc 0.656) out of Ac 4.29 with Kisama Paddy I from the respondent Sri J.Maleswar Rao S/O J.S.N.Rao of PR Peta, Jeypur. Dist Koraput vide sale deed no. 623/1994 dated 25.11.1994 and the land measuring Hc 0.365 (Ac 0.92) is under the control and possession of petitioner as per the map enclosed there in. There after the petitioner sold Hc 0.202 (Ac 0.60) of land to one Sri Rava Nagarjuna Gupta and Hc 0.089(Ac 0.20) of land to Sri Bishnu Prasad Mishra aggregating to Hc 0.291 (Ac 0.70) in subsequent dates In the mean time Sri Bishnu Prasad Mishra managed to got his portion of land mutated in his favour. After that, the settlement operation was going on, the land could not be mutated in favour of the petitioner, and the final RoR published in the year of 1997. As per finally published RoR case land of the petitioner corresponding to HAL plot No.2045 under Khata no. 521 (Hal) has been recorded in the name of J. Maleswar Rao.

The petitioner prayed the court to admit the case and allow the revision, so that the case land will be recorded in the name of the petitioner in the ends of justice

In support of her claim, the petitioner has filed the following documents,

1. Copy (Certified copy) of RSD No. 623/1994 dated.25.11.1994 in support of purchase of land by the petitioner Sri J. Govinda Rao from the respondent Sri J, Maleswar Rao.,
2. Copy of Hal Khata No. 521 of J.Maleswar Rao S/O J.Surinarayana plot No. 2045 to an extent of Hc 1.061 (Ac 2.622).
3. Copy of Hal Khata No. 994/176 of Bishnu Prasad Mishra S/O Jagannath bearing plot No. 2045/7006 to an extent of Hc 0.890 (Ac 0.22).

4 Copy of yadast issued by the Public Information Officer, Settlement Office, Jeypur

The Revenue Inspector, Malkangiri has submitted the field enquiry report with the counter signature of the Tahasildar vide Letter No. 164, dated 28.05.19 of his office.

Heard the learned advocate who appeared for the petitioner. Perused the documents filed by the petitioner and the field enquiry report submitted by the Tahsildar, Malkangiri. The matter is taken up for decision basing on the documents available & hearing.

FINDINGS

In this context, it is seen that under section 15 of OSS Act, 1958, the revisional power may be exercised for revision of any record of right or any portion of a record of right after one year or there after, but not to affect any order passed by the Civil Court under section 42.

The petitioner has filed a revision petition for recording of land in his favour, which are in Hal Khata 521 of Mouza Malkangiri with plot no. 2045 to an extent Hc 1.061 (Ac. 2.622) and the suit land falls within the jurisdiction of this Court.

It is revealed from the field enquiry report submitted by the Tahsildar, Malkangiri that J. Maleswar Rao S/O Late Suryanarayana Rao had sold the land to the petitioner J.Govinda Rao to an extent of Ac 1.62 out of AC 4.29 vide document No 623/1994 recorded as Plot No. 663 Kisama Paddy I. Than the petitioner sold to both the vendees as Bishnu Prasad Mishra S/O Jagannath Mishra of Mendukuli and R.Nagarjuna Gupta S/O R.Gunnaya Setty to an extent of Ac 0.22 and 0.50 respectively out of Ac 1.62 from plot no. 663 vide document No. 624/1994 and 294/1999 leaving a balance area of Ac 0.90 with the petitioner himself. As compared to Sabik and Hal Map, it is reported that the sabik plot No 663 leads to Hal Plot No. 2045 and the same is recorded in the name of J.Maleswar Rao, who has already sold the land to the petitioner. Now the case land is under peaceful possession of the petitioner to an extent of Hc 0.364 (Ac 0.90).

All these lead to the conclusion that the land purchased by the petitioner has not been recorded in his favour rather the same is taken to the Khata No. 521 of J. Maleswar Rao as mistake of Settlement authority.

ORDER

Hence, it is ordered that let the case land Plot No.2045 for Hc 0.364 (Ac 0.90) out of Hc 1.061 of Khata No. 521 (Hal) in the name of J.Maleswar Rao be recorded in the name of the petitioner J.Govinda Rao The Classification to be recorded as Paddy I and rents payable as per the present prevailing rate. The Tahasildar, Malkangiri to carryout the order with in a month and report compliance.

The revision is allowed.

Pronounced in the open Court today i.e. 22.11.2019.

Sd/-
Revisional Authority and Collector,
Malkangiri

PRINCIPLE OF RESJUDICATA; APPLICABLE TO PROCEEDINGS

Gobinda Chandra Nayak
Senior Standing Counsel
Board of Revenue, Odisha

It is well known that the doctrine of *res- judicata* is codified in Section-11 of the Code of Civil Procedure. Section-11 generally comes into play in relation to civil suits. But apart from the codified law, the doctrine of *res-judicata* or the principle of the*res-judicata* has been applied since long in various other kinds of proceedings and situations by courts in England, India and other countries.

Section-11 of Civil Procedure Code 1908 reads as follows:

"No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court".

Explanation I... The expression former suit shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

Explanation II... For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III...T he matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV... Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such.

Explanation V... Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation VI... Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating .

Explanation VII... The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII... An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as *res judicata* in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.

Res-judicata means "*to preserve the effect of first judgment*" in gist. Section-11 Civil Procedure Code enables the party to raise the statutory plea of *res-judicata* if the conditions given therein are fulfilled.

The principle embodied in the statute is not so much far from the principle of "estoppel by record", which the British Courts apply, as one of public policy, based on two maxims derived from Roman jurisprudence:

firstly, *interest reipublicoe ut sit finis litium*—it concerns the State that there be an end to law suits; and,

secondly, "*nemo debet bis vexari pro una et eadem cause*"—no man should be vexed twice over for the same cause.

The rule of "**constructive res-judicata"** is engrafted in Explanation IV of Section-11 of the Code of Civil Procedure and in many other situations also Principles not only of direct res-judicata but of constructive res-judicata are also applied, if by any judgment or order any matter in issue has been directly and explicitly decided, the decision operates as res-judicata and bars the trial of an identical issue in a subsequent proceedings between the same parties. The Principle of res- judicata comes into play when by judgment and order a decision of a particular issue is implicit in it, that is, it must be deemed to have been necessarily decided by implications even then the Principle of res- judicata on that issue is directly applicable. When any matter which might and ought to have been made a ground of defence or attack in a former proceeding but was not so made, then such a matter in the eye of law, to avoid multiplicity of litigation and to bring about finality in it, is deemed to have been constructively in issue and, therefore, is taken as decided [See AIR 1978 SC 1283].

The expression "former suit" according to explanation-I of Section - 11, Civil Procedure Code, makes it clear that, if a decision is given before the institution of the proceeding which is sought to be barred by *res judicata*, and that

decision is allowed to become final by operation of law, a bar of *res-judicata* would emerge.This doctrine is similar to the concept of double jeopardy, but in civil law version. This bars a party of a civil suit from suing against the same claim which was already decided by the Court. Theorigin of *res judicata* couldn't be traced clearly. But, this concept prevails for all the jurisdiction and throughout the world.

India has adopted the principle of *res judicata* in Section-11 of Code of Civil Procedure, 1908 (hereinafter referred to as "C.P.C."). Latin phrase "*Res judicata pro veritate accipitur,*" "*a matter adjudged is taken for truth*". As this is for both civil and common law, the case does not hold appeal. In short it is a bar for re-litigation of such cases between the parties. Res judicata is known to Hindu law as 'Purva Nyaya' which could be also said as former judgment. The case wouldn't be heard expect by way of appeal.

· ***Nemo debet lis vexari pro una et eadem casua*** meaning that no man should be vexed twice for the same cause,·

Interest republicae ut sit finis litium or that it is in the interest of the State that there should be an end to litigation, and·

Res judicata pro veritate occipitur meaning that a judicial decision must be accepted as correct.These three maxims plays a vital role in the concept of Res Judicata.

In Swamy Atmandanda vs. Sri Ramakrishna, Tapovanam **[(2005) 10 SCC 51],** it was held by the Hon'ble Apex court as follows:

> "26. The object and purport of the principle of res judicata as contended in Section 11 of the Code of Civil Procedure is to uphold the rule of conclusiveness of judgment, as to the points decided earlier of fact, or of law, or of fact and law, in every subsequent suit between the same parties. Once the matter which was the subject-matter of lis stood determined by a competent court, no party thereafter can be permitted to reopen it in a subsequent litigation. Such a rule was brought into the statute-book with a view to bring the litigation to an end so that the other side may not be put to harassment.
>
> 27. The principle of res judicata envisages that a judgment of a court of concurrent jurisdiction directly upon a point would create a bar as regards a plea, between the same parties in some other matter in another court, where the said plea seeks to raise afresh the very point that was determined in the earlier judgment."

When the material issue has been tried and determined between the same parties in a proper suit by a competent court as to the status of one of them in relation to the other, it cannot be again tried in another suit between them as laid down in Krishna Behari Roy vs. Bunwari Lal Roy reported in [1875 ILR (IC-144)], which is followed the Hon'ble Apex court in the case of Ishwar Dutt Vs. Land Acquisition Collector & Anr. [(2005) 7 SCC 190], wherein the doctrine of 'cause of action estoppel' and 'issue estoppel' has been discussed. It is laid down by the Hon'ble Apex court that if there is an issue between the parties that is decided, the same would operate as a res-judicata between the same parties in the subsequent proceedings

In the case of "Kalinga Mining Corporation v. Union of Indiareported in **2013 (5) SCC 252** The appellants relied upon some case laws according to which the illegitimate children were entitled under Section 16 of Hindu Marriage Act, 1955 to inherit only the self acquired property of their father whereas the lands in dispute are claimed to be with the family from the time of Kishun father of Bechai and Kanhai.

The Writ Court accepted the submission advanced on behalf of appellants that as per settled law, the principles of res judicata, constructive res judicata and estoppels are applicable to the proceedings under the Act. The Writ Court, however made a distinction between binding nature of even an erroneous judgment between the same parties in respect of same property and the binding nature of such judgment in another proceeding as res judicata when the subsequent proceeding or suit is for a different property.

FOUR ELEMENTS MUST BE PRESENT:

1. Competent jurisdiction shall be present
2. Judgments should be on merits
3. Cause of action should be present
4. The parties in the second action must have been involved in the initial litigation

Hon'ble Supremecourt in the case of***'Rama Chandra Dagde Sonavane(Dead) by LRs& Others vs Vithu Siramahar(Dead by LRs & Others*** **reported in *2009(10) SCC-273***held that :

"Issue deemed to have been decided by implication- Principle of Resjudicata is directly applicable."

However departing from the general application Section-11 of CPC in the case of **State of Maharastra V. Digambar,(1995(4) SCC-683** and in the case of **Surendra Nath Pande vs U.P Co-operative Bank Ltd, ,(2010)**

12 SCC 400,the Supreme court has held that "where the state is a litigant, the principle of Res-judicata strictly does not apply as so much factors are there with State for which the earlier decision could not be challenged before the higher forum."

However, in subsequent case within **A.B.C Bajaj vs. Union of India(2014) 3 SCC 777**, the SupremeCourt departed from their earlier view taken in *Digambar Case* and held that "where conscious decision was taken by the state not to challenge the earlier order, in that case State cannot adopt the pick and choose method.Principle of res-judicata will apply to subsequent proceedings".

In the case of **Mohanlal Goenka v. Benoy Kishna Mukherjee,** reported in **AIR1953 SC 65,** the Hon'ble Apex court has held that*"23. There is ample authority for the proposition that even an erroneous decision on a question of law operates as 'res judicata' between the parties to it. The correctness or otherwise of a judicial decision has no bearing upon the question whether or not it operates as 'res judicata."*

The Hon'ble High Court of Orissa In the case of **"Deputy General Manager(HR) Vs Anup Kumar Panda & Another** Reported in **117(2014)CLT-850** / **2013(Suppl-II)OLR-1063** held that :

"Section:-11 -Question of applicability of the doctrine of *Res-judicata* is always a mixed question of facts and law- Issue raised between the same parties in an earlier *lis* requiring the factual finding; if adjudicated by a competent court of law having jurisdiction has decide such issue, the same cannot be re-agitated in a subsequent proceeding."

STATE GOVERNMENT LAND ON LEASE

Jagannath Rath
Standing Counsel
Board of Revenue, Odisha

1. The Orissa Govt. Land Settlement Act, 1962.

2. Sect- 3 of the Act empowers the Govt. to reserve such portions of the land for being used as house-site, communal use, industrial purpose or for any other use.

3. Sect-3 (1) (e) of the Act empowers any officer not below the rank of Tahasildar to dispose of application for settlement of Govt. land in the manner prescribed.

4. Settlement shall be made subject to provisions under Sub-Section 2 and 3 of Sect-3 of the Act i.e. reserving 70% of the land for the SC/ST people of the village and giving priority to the Co-operative farming societies formed by landless agricultural labourers, landless agricultural labourers of the village, ex-serviceman

of the village etc and subject to provisions of Rule-3(5) of the OGLS Rules, 1974 i.e. the proclamation by beat of drum affixing copy of the same at a conspicuous place in the village, a copy of proclamation be published by affixing in the notice Board of the Tahasil office and a copy shall also be sent to the Gram Panchayat in which the land is situated.

5. If question of reservation for SC/ST of the village and the priority of settlement has not been considered and the proclamation has not been published as per Rule-3(5), then the settlement will be quashed by the ADM in revision for violation of mandatory provisions.

Ref:- 71(1991) CLT 786 Nabakishore Das

81 (1996) CLT 513 Sarat Ch. Sahoo

- In the case of Sarat Ch. Sahoo (81 (1996) CLT 513) the Hon'ble Court found that the Tahasildar, Bhubaneswar and the local R.I in collusion with the applicant settled 1 acre of land, recorded as "Thorny Jungle", in favour of the applicant without following the mandatory provision of law and therefore, directed the State Govt. to enquire into the matter through a senior officer in the rank of Secretary and then take necessary administrative actions.

6. Rule-10 of the OGLS Rules, 1983 provides that while settling lands, the terms and conditions of the settlement of lands for purposes, other than agriculture, both in rural and urban areas, shall be fixed as may be determined by the Govt. from time to time.

7. Sub Sect-(4) of Sect-3 of the Act provides that the Khasmahal, Nazul, Gramakanta parambok or Abadi lands will be settled permanently with heritable and transferable right.

8. Rule-5 (c) of the OGLS Rules, 1983 also provides that the settlement of Govt land on lease basis for homestead purpose in the urban areas as mentioned in Sch-VI may be converted to free hold as permanent basis with heritable and transferable rights.

- As per Sch-VI, conversion to free hold is applicable only to lands leased for homestead/residential purpose.

- For conversion to free hold, the lease holder shall apply to the Tahasildar in Form No.1.

- After conversion the ROR will be corrected.

- Appeal lies to RDC against the order of the Tahasildar.

9. Except the above two provisions, there is no other provision in the Act or Rules to settle the Govt. land on permanent basis with heritable and transferable right.

10. Section-3(b) of the Act empowers the authorized officer to resume the settled land if it is used for any purpose other than for which it was settled or the person, other than homestead less person or landless agricultural Labour, has not used the land for a period exceeding 3 years from the date of settlement.

11. However, while granting lease or settling the land the authority should mention the terms and conditions of settlement and also the rights of inheritance and transfer if permissible under law.

- If there is no right of inheritance or transfer, the same should also be mentioned while granting lease or settling the land.

12. While granting lease or settling the land the lease period should also be mentioned and the land should be immediately resumed by the authority after expiry of the said period.

13. If aforesaid steps are taken while granting lease or settling Govt. land, then the same can be protected from illegal selling by the leaseholders.

14. Rule-3(3) of the OGLS Rules, 1983 empowers the authority to grant lease or settle land for Industrial purpose in the urban areas.

- While settling the land for Industrial purpose the same procedure prescribed in the Sub-section 2 and 3 of Sect- 3 of the Act i.e. reservation for SC/ST and priority to persons prescribed therein and publishing the same in a conspicuous area of the village and copy to Gram Panchayat in which the land is situated should be followed.

- While granting lease the authority should clearly mention the purpose of the lease, period of lease and that the lease holder has no right to inherit and transfer the said land.

- The authority also can resume the said land if it is not used for the purpose it was settled or it is used for the purpose other than it was settled.

15. If any authority deviates from the aforesaid rules, the higher authority should take immediate disciplinary action against the errant officers.

16. The Higher Authority should also inspect the records, settling Govt. lands, periodically so as to protect abuse and misuse of the process.

17. Rule-5 (6) of the OGLS Rules, 1983 provides that the Tahasildar shall forward a list of lease granted every month to the Collector for his information.

- This provision is not a mere formality.

- This is one kind of approval of the lease granted. Therefore to protect the Govt. lands from illegal lease, the Collector has also a duty to find out if the lease granted has been properly processed as per law.

18. The Collector should verify the case record to find out if provisions of Sub-Sect-2 and 3 of the Sect-3 of the Act i.e. reservation for SC/ST and priority to the person prescribed has been complied or not. He should also verify if the proclamation

has been done properly or not i.e. publication in a conspicuous place of the village by beat of drum, publication in Notice Board of Tahasildar office and copy served on Gram Panchayat in which the land situates. He should also verify the lease deed if the period of lease, the purpose of lease and the right of inheritance and transfer, if any, has been mentioned or not.

If the aforesaid procedure will be followed and maintain property and also as per the provisions contend under the statute, then only Govt. land can be protected all over the State.

R.P Case No. 12 of 2008

Decided on 24.06.2021

(Order by Sri Subhakanta Mishra, OAS (SS),
Commissioner, Consolidation & Settlement, Odisha, Bhubaneswar)

Baidhar Jena ... **Petitioner**

-Versus-

Padma Charan Panigrahi (Dead) & others ... **Opp. Parties**

For the petitioner	...	Mr. A. K. Moharana, Advocate
For Opp. Party No. 1 to 3	...	None
For Opp. Party No. 4 & 5	...	Mr. B. K. Samantaray, Addl. Standing Counsel

ORDER

The case in brief is that the petitioner had filed one petition **U/S 15(b) of the O.S & S Act 1958** with prayer to record the suit land in favour of Petitioner by creating a separate Khata.

SCHEDULE OF PROPERTY

Mouza: Makundapur, P.S: Begunia, Tahsil: Bolagarh, Dist.:Khordha

HAL Khata No.	**Hal Plot No.**	**Area**
195	1721	Ac. 0.505 Dec.
Sabik Khata No.	**Sabik Plot No.**	**Area**
259	1414	Ac. 0.505 Dec.

Basing on the aforesaid petition of the petitioner, one R.P. Case had been registered vide R.P. No. 12/2008 and notice had been issued to Opposite Parties by registered post. In-spite of repeated notice none of the O.Ps appeared in the court. Heard the case in presence of the Learned counsel for the petitioner and Addl. Standing counsel for the state.

Petitioner had filed a petition U/S 5 of the Limitation Act for condonation of delay due to delay in filling of this case. The delay condonation petition considered and allowed delay condoned the case is admitted.

The petitioner has submitted Certified Copy of Hal ROR khata No. 195,Certified Copy of Sabik ROR khata No. 259, Original RSD No. 841 Dt: 02-03-1983, Copy of RSD No. 912 Dt: 21-04-1987 and sabik to Hal correlation information in support of their claim.

The Hal ROR bearing Khata No. 195 of Mouza Mukundpur containing Hal plot No. 1721 with an area of Ac. 0.505 dec including other plots stands recorded in the name of Padma CharanPanigrahiS/O Anant Panigrahi by caste Brahman of Vill. Nijgaon.

The Sabik ROR bearing Khata No. 259 of Mouza Mukundpur containing Hal plot No. 1414 with an area of Ac. 0.505 dec including other plots stands recorded in the name of Anant Panigrahi S/O Mahan Panigrahi by caste Brahman of Vill. Nijgaon.

It is seen from RSD No. 841 dt: 02-03-1983through which Padma CharanPanigrahi S/O Anant Panigrahi by caste Brahman of Vill.Mukundpurhad transfer an area of Ac. 0.505 dec bearing sabik plot No. 1414 under sabik khata No. 259 of mouza Mukundpur in favour of Gagan Bihari Panigrahi, Bipin Bihari Panigrahi S/O Shankar Panigrahi by caste Brahmin of Vill. Mukundpur.

Another RSD No. 912 dt: 21-04-1987through whichGagan Bihari Panigrahi, Bipin Bihari Panigrahi S/O Shankar Panigrahi by caste Brahmin of Vill. Mukundpur had transfer an area of Ac. 0.505dec bearing sabik plot No. 1414 under sabik khata No. 259 of mouza Mukundpur in favour of Baidhar Jena S/O Jagannath Jenaby caste Khandayat of Vill. Kantabada.

The sabik to Hal correlation information furnished by Tahasildar Begunia Application No. 5 Dt: 02/07/2007 reveals that Sabak Plot No. 1414 under Sabik Khata No. 259 with an area of Ac. 0.505 dec corresponds to Hal plot No. 1721 with an area of Ac. 0.505 dec under Hal Khata No. 58 of mouza Mukundpur.

It is seen from PWR report furnished by ASO, Puri reveals that as per yadast No. 1721 Baidhar Jena has purchased the suit land and in possession but at the time of Settlement operation Baidhar Jena was absent and even on repeated calls he did not appear or file any objection. So ASO has ordered to record the Hal plot 1721 in favour of Padma CharanPanigrahi, Raji Panigrahi S/O Anant Panigrahi, Rupei Panigrahi W/O Anant Panigrahi.

From the above, it is clear that the title has rightly been transferred in favour of the petitioner. The petitioner has acquired right Title & interests over the case land by virtue of valid Registered sale deed and possession.

In view of the above, the claim of the petitioner in this petition merits consideration. Hence, I am inclined to allow the Revision Petition in favour of the petitioner.

Tahsildar, Begunia is directed toverify all the documents and records and conduct field verification and take away an area of Ac. 0.505 dec from Hal Khata No. 195 of mouza Mukundpurbased on the field verification and possession by creating a separate Khata with fixation of rent cess ect following due process of Law.

True copy of the order be sent to Tahsildar Begunia with a separate letter for information and necessary action.

Pronounce the Order in the open Court today i.e., on 24th day of June ,2021.

Sd/-
Commissioner,
C & S, Odisha, Bhubaneswar

R.P Case No. 142 of 2016

Decided on 04.06.2021

(Order by Sri Subhakanta Mishra, OAS (SS),
Commissioner, Consolidation & Settlement, Odisha, Bhubaneswar)

Surendra Maharana & others ... **Petitioners**

-Versus-

Manguli Sahoo & others ... **Opp. Parties**

For the petitioner	...	Mr. U. Barik, Advocate
For Opp. Parties	...	B. Badajena, Advocate
For Opp. Party No. 5 & 6	...	Mr. B. K. Samantaray, Addl. Standing Counse

ORDER

The Case is brief is that the Petitioner have filed one R.P. Case No. 142/ 2016 has been filed U/S-15 (b) of the OS&S Act., 1958 with prayer to record the suit land in favour of Petitioner.

SCHEDULE OF PROPERTY

Mouza- Ostapur, Tahasil- Begunia, , PS/Dist. Khordha

Sabik Khata No.	Sabik Plot No.	Area
81	67	Ac.0.556 dec
Hal Khata No.	**Hal Plot No.**	**Area**
21	105	Ac.0.270 dec

Basing on the aforesaid petition of the petitioner, one R.P. case had been instituted U/S 15(b) of the O S & S Act.1958 vide R.P. Case No. 142/2016. Notice had been issued to all the OPs. Heard the Revision Petition in presence of Counsel

for the Petitioners and Addl. Standing Counsel for the state was present on behalf of opposite parties.

The Delay condonation Petition is filed by petitioner under U/S 5 (1) of the Limitation Act, which is allowed. Delay condoned and the case is admitted.

Petitioner has submitted certified copy of Sabik Khata No.81 of Mouza-Ostapur, certified copy of Hal Khata No.21 of Mouza- Ostapur, Original R.S.D No.2452 dtd.26.03.1960 and Certified copy of Hal-Sabik Co-relation information in support of their claims.

The Sabik ROR bearing Khata No. 81 of Mouza-Ostapur, containing Plot No. 67 with an area of Ac0.556 dec, including other plots stands recorded in the name of Udayanath Sahoo S/O-Iswar Sahoo of Vill- Nijgaon.

The Hal ROR bearing Khata No.21 of Mouza- Ostapur Containing Plot No. 105 with an area of Ac.0.270 dec, including other plots stands recorded in the name of Udayanath Sahoo S/O-Iswar Sahoo of Vill- Nijgaon.

As per Sabik to Hal Co-relation information furnished by OIC Record Room Tahasil Begunia, it reveals that Sabik Plot No.67 corresponds to Hal Plot No. 105 under Hal Khata No. 21 of Mouza- Ostapur.

Perused the RSD Bearing No.2452 dtd:26.03.1960 vide which Madhu Dahoo S/O- Iswar Sahoo had transferred an area of Ac.0.252 dec pertaining to Sabik Plot No. 67 under Sabik Khata No. 81 of Mouza- Ostapur in favour of Sadhu Maharana S/O- Narayana Maharana of Vill-Ostapur.

Perused Legal Heir certificate of deceased Udayanath @ Madhu Sahoo, the heirs are Manguli Sahoo, Baikuntha Sahoo Both area S/O- Late Madhu Sahoo, Ahalya Biswal, Srimati Biswal both area married daughter of Late Madhu Sahoo.

Manguli Sahoo S/O- Udayanath Sahoo sworn affidavit stating their in that Udayanath Sahoo & Madhu Sahoo is the same and one person.

The Counsel for the petitioner submits that to record the suit land in favour of the petitioners by virtue of Regd. Sale deed and possession.

From the above it is clear that the title has rightly been transferred in favour of the Petitioner, the Petitioners have acquired right, title & interest over the suit land by virtue of purchase through valid Regd. Sale deed.

In view of the above observation, I am inclined to allow the R.P. Case No.142/2016 in favour of the petitioner.

Tahasildar, Begunia is directed to conduct field enquiry and take away an area of Ac.0.252 dec pertaining to Hal plot No.105 under Hal Khata No.21 of Mouza-Ostapur and record the same in the name of Petitioners Surendra Maharana, Kulamani Maharana, Both are S/O- Late Sadhu Maharana, Sulochana Moharana, W/O- Late Prananath Maharana, Kartika Mahrana, S/O- Late Prananath Mahanara,

All are of Vill- Ostapur, Po-Kotapala, Ps/Dist-Khordha by creating a separate Khata with fixation of rent & cess etc.

True copy of the order may be sent to the Tahasildar, Begunia, with a separate letter for information and necessary action.

Order pronounced in the open Court to i.e. on 04.06.2021

Sd/-
Commissioner,
C & S, Odisha, Bhubaneswar

R.P Case No. 24 of 2017

Decided on 02.06.2021

(Order by Sri Subhakanta Mishra, OAS (SS),
Commissioner, Consolidation & Settlement, Odisha, Bhubaneswar)

Alekha Behera ... **Petitioner**
-Versus-
Haribandhu Das (Dead) & others ... **Opp. Parties**

For the petitioner ... Mr. G. K. Nayak, Advocate
For Opp. Parties 1 to 4 ... None
For Opp. Party No. 5 & 6 ... Mr. B. K. Samantaray,
Addl. Standing Counse

ORDER

The Case is brief is that the Petitioner have filed one R.P. Case No. 24/2017 has been filed U/S-15 (b) of the OS&S Act., 1958 with prayer to record the suit land in favour of Petitioner

SCHEDULE OF PROPERTY

Mouza- Sinduria,PS/Tahasil- Nayagarh, Dist. Nayagarh

SabikKhata No.	**Sabik Plot No.**	**Area**
174	373	Ac.0.380dec
Hal Khata No.	**Hal Plot No.**	**Area**
965	1248	Ac.0.270dec

Basing on the aforesaid petition of the petitioner, one R.P. case had been instituted U/S 15(b) of the O S & S Act.1958 vide R.P. Case No. 24/2017. Notice had been issued to all the OPs. Heard the Revision Petition in presence of Counsel for the Petitioners and Addl. Standing Counsel for the state was present on behalf of opposite parties 2 & 3.

The Delay condonation Petition is field by petitioner under U/S 5 (1) of the Act, which is allowed. The petitioners have filed all the relevant original documents in support of their claims.

Petitioner has submitted certified copy of Sabik Khata No.174, certified copy of Hal ROR Khata No.965, copy of the R.S.D No.2259 dtd.25.03.1980 and Certified copy of Hal-Sabik Co-relation information in support of his claims.

The Sabik ROR bearing Khata No. 174 of Mouza-Sinduriacontaining Plot No. 373with an area of Ac.0.38 dec stands recorded in the name of Bula Das S/O-Gobinda Dasby Caste Karana of Vill- Nijgaon.

The Hal ROR bearing Khata No.965of Mouza- Sinduria containing Plot No. 1248with an area of Ac.0.270 dec including other plotstands recorded in the name of Haribandhu Das, S/O- Bula Das by Caste- Karan of Vill- Nijagaon.

As per Sabik to Hal Co-relation information furnished by O.I.C record room Nayagarh Tahasil, itreveals that Sabik Plot No.373corresponds to Hal Plot No. 1248 under Hal Khata No. 965 of Mouza- Sinduria.

Perused the RSD bearing No. 2259 dtd: 25.03.1980 vide which HaribandhuDas S/O- Bula Das by Caste- Karan of Vill- Sinduria had transferred an area of Ac.0.38 dec pertaining to Sabik Plot No. 373 under Sabik Khata No. 174 of Vill. Sinduria in favour of Alekha Behera S/O- Gopal Behera by caste-Gopal of Vill. Sinduria.

The Ops also filed an affidavit stating that, they have no-objection, if the suit land is recorded in favour of petitioner.

From the above it is clear that the title has rightly been transferred in favour of the Petitioner, the Petitioner has acquired right, title & interest over the suit land by virtue of valid Regd. Gift deed.

In view of the above observation, I am inclined to allow the R.P. Case No.24/2017 in favour of the petitioner.

Tahasildar, Nayagarh, is directed to conduct field enquiry verify records and Map andpossession of the petitioner, correct the area of Hal Plot No. 1248 from Ac.0.270 dec to Ac.0.380 dec and take away Hal plot No.1248with the enhanced area under Khata No.965 of Mouza-Sinduria and record the same in the name of Petitioner Alekha Behera, S/O-Gopal Behera, At/po-Sinduria, Ps/Dist-Nayagarhby creating a separate Khata with fixation of rent & cess etc. The map may be corrected accordingly.

True copy of the order may be sent to the Tahasildar, Nayagarh, with a separate letter for information and necessary action.

Order pronounced in the open Court to i.e. on 02.06.2021.

Sd/-
Commissioner,
C & S, Odisha, Bhubaneswar

R.P Case No. 163 of 2018

Decided on 09.06.2021

(Order by Sri Subhakanta Mishra, OAS (SS),
Commissioner, Consolidation & Settlement, Odisha, Bhubaneswar)

Dillip Kumar Das ... **Petitioner**

-Versus-

Gobinda Chandra Pradhan & others ... **Opp. Parties**

For the petitioner	...	Mr. J. Pradhan, Advocate
For Opp. Party No. 1 & 2	...	None
For Opp. Party No. 3 & 4	...	Mr. B. K. Samantaray, Addl. Standing Counse

PRAYER

The case is in brief is that the Petitioner had filed one petition u/s 15(b) OS&S Act. 1958 with prayer for record suit land in the name of the Petitioner by deleting the name of the OP No. 1 and issued correct patta.

SCHEDULE OF PROPERTY

Mouza –KandhaNayagarh, Tahasil: Ranpur.Dist. - Nayagarh.

SabikKhataNo.	**Plot No.**	**Area**
901	1876/1907	Ac.0.88 dec. out of Ac. 1.00 dec
Hal Khata No.	**Plot No.**	**Area**
243	531	Ac. 0.88 dec. out of Ac. 1.00 dec

Basing on the aforesaid petition of the petitioner,one R.P. Case had been registered vide R.P. No. 163/2018 and notice had been issued to Opposite Parties by registered post. In spite of notice, none of the O.P. appeared in the court on repeated calls. Heard the case in presence of Addl. Standing Counsel for the state and Learned Counselfor the petitioner.

The petitioner had filed a petition U/S – 5 of the Indian Limitation Act. With prayer for Condonation of delay in filling of this Revision Petition. The plea taken in this petition for condonation of delay appears to be genuine for which the same had been considered and allowed,delay condonedand the case is admitted.

The Petitioner has submitted Certified Copy of Hal RoR No. 243 of Mouza KandhaNayagarh, Certified Copy of Sabik RoR No. 901 of Mouza

KandhaNayagarh,Original RSD No. 11411200242 dt: 24-02-2012and sabik to Hal correlation information in support of his claim in this petition.

The Hal ROR bearing Khata No. 243 of mouza KandhaNayagarh containing Hal plot No. 531 with an area of Ac. 1.00 dec including other plots stands recorded in the name of Govinda Chandra Pradhan S/O Khali Pradhan by caste Khandayat of Vill. Nijgaon.

The Sabik ROR bearing Khata No. 901 of mouza KandhaNayagarh containing Sabik plot No. 1876/1907 with an area of Ac. 1.00 dec including other plots stands recorded in the name of Govinda Chandra Pradhan S/O Khali Pradhan by caste Khandayat of Vill. KandhaNayagarh.

Perused the RSD No. 11411200242 dt: 24-02-2012 through which Govinda Chandra Pradhan S/O Khali Pradhan by caste Khandayat of Vill. KandhaNayagarhhas transferred an area of Ac. 0.88 dec out of Ac. 1.00 dec pertaining to Sabik Plot No. 1876/1907 under Sabik Khata No. 901 of MouzaKandhaNayagarh andin favour of Dillip Kumar Das S/O KailashChandra Das by caste Rajput of Vill. Kandhanayagarh.

It is seen from Sabik to Hal correlation information furnished by ASO, Record Room, Major Settlement, Cuttack, through Application No. 558 dt: 21-01-2020 that Sabik plot No. 1876/1907 pertaining to Sabik Khata No. 901 of mouza KandhaNayagarh corresponds to Hal plot No. 531 under Hal Khata No. 243 of mouza Kandha Nayagarh.

In view of above, the prayer of the petitioner merits considerations. Hence, I am inclined to allow the Revision Petition No. 163/2018 in favour of the Petitioner.

The Tahasildar Ranpur is directed toverify all the records and documents and take away an area of Ac. 0.88dec pertaining to Hal plot No. 531under Hal khata No. 243 of mouza KandhaNayagarh and create a separate Khata and plot in favour of petitioner Dillip Kumar Das S/O Kailash Chandra Das by caste Rajput of Vill. Kandhanayagarh and fixation of Rent and Cess etc. following due process of Law.

True copy of the order be sent to Tahsildar Ranpur with a separate letter for information and necessary action.

Pronounce the Order in the open Court today i.e., on 9thday of June, 2021.

Sd/-
Commissioner,
C & S, Odisha, Bhubaneswar

O.S.S.A. Revision Case No. 49 of 2017

(Arising out of S.R.P. No. 196/2007 of
Court of the Joint Commissioner, S & C, Berhampur)

Decided on 27.03.2018

(Order by Dr. Ajit Kumar Mishra, OAS (SAG),
Collector, Nabarangpur

Bidya Randhari & Others ... **Petitioners**

-Versus-

Charge Officer, Jeypore & another ... **Opp. Parties**

ORDER

This case is taken up today.The Advocate for the petitioners is present. Heard the learned Advocate for the Petitioners. Perused the record. The story of the case in gist is as follows-

The case has been originally initiated in the Court of Joint Commissioner, C & S, Berhampur vide **SRP No. 196/2007**, which has been transferred to the Court of the Revenue Divisional Commissioner, SD, Berhampur and re-numbered as **O.S.S.A. Revision Case No.219/2016** and the same has been transferred from the said Court on the strength of receipt of Notification No.23966/RDM dated 21.07.2017 of Government in Revenue & Disaster Management Department, Odisha, Bhubaneswar, wherein the State Government have delegated the powers of Board of Revenue, Odisha under section 6-D, 15 & 25 of the Odisha Survey & Settlement Act,1958(Odisha Act 3 of 1959), in favour of the Collector, Nabarangpur to exercise the powers and perform duties under the above provisions in respect of Nabarangpur district for the purpose of early disposal of revision cases.

The instant case has been re-numbered as OSSA Revision case No.**49/2017** in respect of this Court and taken up today.

The prayer of the Petitioner as revealedfrom perusal of the Revision Petition is that the father of the petitioners possessed the case land prior to settlement, in peaceful and undisputed measuring to an extent of Ac.3.47 pertaining to Sabik Khata No.80, Sabik Plot No.254, 255, 468 & 470 of Auli mouza under Kodinga Tahsil. During Khanapuri, the learned Settlement Authority have passed an impugned order

to record the case land in the AJA Khata bearing Hal Khata No.334, Plot No. 636, 637, 920, 922 under Abada Jagya Anabadi Khata. Accordingly, the Petitioners have prayed to admit the Revision case and to call for the lower Court record and after hearing allow the Revision Petition by setting-aside the impugned ROR in respect of the case land and direct the Tahsildar, Kodinga to record the case land in the name of the petitioners.

From perusal of the Para Wise Report furnished by the Asst. Settlement Officer, Records, Settlement Office, Jeypore vide letter No.6 dated 05.01.2015, it is revealed that the suit sabik plot No.254 Ac.0.60, 255 Ac.0.29, 470 Ac.2.18, 468 Ac.0.21 in total Ac.3.28 under Sabik Khata No.80 corresponding to Hal plot No.636 Ac.0.60, 637 Ac.0.30, 920 Ac.0.21 and 922 Ac.2.36 total Ext.3.47 under Hal Khata No.334 stood recorded in the name of Dhanasingh Randhari s/o Sansai Randhari Caste-Bhatra of same village as naukari Mafi Jagiri (Niskara). During Khanapuri operation,the A.S.O passed orders to record above hal plot No.636, 637, 920 & 922 in the name of sabik Khatadar Dhansingh Randhari s/o Sansai Randhari ,caste-Bhatra of same village vide Yadast No.205.

In course of Rent camp, one suo-moto case was instituted and the learned Asst. Settlement Officer of Rent Case has passed orders vide Rent Case No.740/ 1991 to record the suit land in Abada Jogya Anabadi Khata as the opposite party of Rent Case, Dhansingh Randhari s/o Sansai Randhari could not produce any document and the Tahsildar has not fixed rent. Since, there was no appeal in the above Draft records, the Addl. Settlement Officer, Jeypore approved the Rent roll on 12.07.1991 and the records have been finally published on 30.07.1991.

In this connection, it is pertinent to mention here that the petitioners in the instant case also could not produce any documents to substantiate their claim and failed to prove their case.

In view of the elaborate discussions made supra, I am of the opinion that the learned Asst. Settlement Officer of Rent Case has rightly passed orders to record the suit land in Abada Jogya Anabadi Khata. Further, I am not convinced with the prayer of the Petitioners and since the present Petitioners have failed to substantiate their claim, I am inclined to order that the Revision Petition filed by the above named Petitioners, being devoid of any merit, is liable to be rejected, so it is rejected.

Order pronounced in the open Court on this day the 27th March, 2018.

Sd/-
Collector, Nabarangpur

O.S.S.A. Revision Case No. 54 of 2017

(Arising out of S.R.P. No. 338/2007 of
Court of the Joint Commissioner,
Settlement & Consolidation, Berhampur)

Decided on 12.06.2018

(Order by Dr. Ajit Kumar Mishra, OAS (SAG),
Collector, Nabarangpur)

Hanu Harijan ... **Petitioner**

-Versus-

Tahasildar, Papadahandi & others ... **Opp. Parties**

ORDER

This case is taken up today.S.R. back. The Advocate for the Petitioner is present and filed hazira. The O.P. No.4 is present and filed hazira. The O.P. No.5 and 6 are absent. Heard the O.P. No.4 and the learned Advocate for the Petitioner. The Government Pleader is present. Perused the record. The story of the case in gist is as follows-

The case has been originally initiated in the Court of Joint Commissioner, C & S, Berhampur vide **SRP No. 338/2007**, which has been transferred to the Court of the Revenue Divisional Commissioner, SD, Berhampur and re-numbered as **O.S.S.A. Revision Case No.226 / 2016** and the same has been transferred from the said Court on the strength of receipt of Notification No.23966/RDM dated 21.07.2017 of Government in Revenue & Disaster Management Department, Odisha, Bhubaneswar, wherein the State Government have delegated the powers of Board of Revenue, Odisha under section 6-D, 15 & 25 of the Odisha Survey & Settlement Act,1958(Odisha Act 3 of 1959), in favour of the Collector, Nabarangpur to exercise the powers and perform duties under the above provisions in respect of Nabarangpur district for the purpose of early disposal of revision cases. The instant case has been re-numbered as OSSA Revision case No.**54**/ **2017** in respect of this Court and taken up.

The prayer of the Revision petitioner as reveled from the Revision petition is that the petitioner has filed the revision challenging the illegal and arbitrary record of right prepared by the Settlement authority in the name of Sambaru Paraja S/o Dhana

Paraja, who is the father of the O.P. No.3 to 5 of the suit land though he is neither the owner of the suit land nor in possession of the same. The Petitioner further submits that the grandfather of the petitioner was in possession of the said land by constructing his house over the suit land corresponding to Sabik Khata No.138, Plot No.180 Area Ac.0.22 Kissam-basti of Chandili mouza. During Hal settlement operation, the Settlement authorities have recorded the suit land in the name of Sambaru Paraja S/o Dhana Paraja, who is the father of the O.P. No.3 to 5. Accordingly, the Petitioner has prayed to allow the revision directing the appropriate authorities to correct the Hal ROR of the Khata No.289, Plot No.753 Ac.0.22 in deleting the name of the Sambaru Paraja S/o Dhana Paraja as owner of the suit land and further direct to record the name of the Petitioner as the owner of the suit land.The Petitioner has filed certified copy of Hal ROR of Khata No.289 of Chandili Mouza, Xerox copy of Yadast No.565 of Chandili mouza in support of his claim, but failed to file any documentary evidences relating to his claim of possession over the case land.Hence, it is evident that the Petitioner has got no strict proof of his possession over the case land. The Opposite parties so present during hearing have also failed to file any documentary evidences in support of their claim relating to their possession over the case land.From perusal of the Field Possession Report furnished by the Tahsildar, Papadahandi vide letter No.771 dated 11.06.2018, it is revealed that the case land is recorded in the name of Samaru Paraja D/o Dhana Paraja. But, one Hanu Harijan S/o Haldhar Harijan has been encroaching the land in the same plot.

In view of the elaborate discussions made supra, I am of the opinion that both the parties have failed to file any documentary evidences in support of their claim relating to their possession over the case land. Hence, I am not convinced with the prayer of the Petitioner with regard to recording of the case land in his favour and since the present Petitioner as well as the O.P. No.3 to 5 have failed to substantiate their claim, I am inclined to order that the impugned Hal ROR of Khata No.289, Hal Plot No.753 to an extent of Ac.0.22 of Chandili mouza finally published by Assistant Settlement Officer, Settlement, Jeypore is liable to be set-aside, so it is set-asided and the Revision Petition filed by the above named Petitioner, being devoid of any merit, is liable to be rejected, so it is rejected.The Tahasildar, Papadahandi is directed to correct the Hal ROR of Khata No.289, Hal Plot No.753 to an extent of Ac.0.22 of Chandili mouza and to record the same in Rakhit Khata of Chandili mouza and evict the encroachers from the same land immediately.

Order pronounced in the open Court on this day the 12th June, 2018.

Sd/-

Collector, Nabarangpur

O.S.S.A. Revision Case No. 75 of 2017

(Arising out of S.R.P. No. 178/2007 of
Court of the Joint Commissioner, Settlement & Consolidation, Berhampur)

Decided on 19.06.2018

(Order by Dr. Ajit Kumar Mishra, OAS (SAG),
Collector, Nabarangpur)

Khalli Charan Pradhan ... **Petitioner**

-Versus-

Tahasildar, Jharigam & others ... **Opp. Parties**

ORDER

This case is taken up today.S.R. back duly served on both parties. The learned Advocates for both parties are present and filed hazira. The Government Pleader is present during hearing of the case. Heard the learned Advocates for the Parties. Perused the record. The story of the case in gist is as follows-

The case has been originally initiated in the Court of Joint Commissioner, C & S, Berhampur vide **SRP No.178/2009**, which has been transferred to the Court of the Revenue Divisional Commissioner, SD, Berhampur and re-numbered as **O.S.S.A. Revision Case No.256/2016** and the same has been transferred from the said Court on the strength of receipt of Notification No.23966/RDM dated 21.07.2017 of Government in Revenue & Disaster Management Department, Odisha, Bhubaneswar, wherein the State Government have delegated the powers of Board of Revenue, Odisha under section 6-D, 15 & 25 of the Odisha Survey & Settlement Act,1958(Odisha Act 3 of 1959), in favour of the Collector, Nabarangpur to exercise the powers and perform duties under the above provisions in respect of Nabarangpur district for the purpose of early disposal of revision cases.

The instant case has been re-numbered as OSSA Revision case No. **75/2017** in respect of this Court and taken up today.

During hearing of the case on 27.03.2017, the learned Advocate for the Opposite Party No.3 submitted that 6 nos. of cases i.e. OSSA Revision Case No.74/2017, 75/2017, 76/2017,77/2017,78/2017 and 79/2017 have been filed by the present petitioner Khalli Charan Pradhan s/o Arakhita Pradhan of village Jharigam against the Opposite Party Chandramani Pradhan s/o late Arakhita Pradhan of village Jharigam and prayed to hear the aforesaid 6 nos. of cases simultaneously . Accordingly, all the aforesaid 6 nos. of cases have been heard simultaneously. Perusal of the aforesaid case records, it is revealed that the Petitioner has filed these cases separately for a single Khata instead of filing separate cases. The

prayer of the Petitioner is that the Petitioner has purchased the case land, but the Settlement Authorities have issued Hal ROR bearing Khata No.31 of Jharigam mouza jointly in the name of the Petitioner and Opposite Party.

The learned Advocate for the Opposite Party No.3 submits that earlier the Opposite Party had filed partition suit before the Civil Court at Nabarangpur and the same was dismissed. Thereafter, the Petitioner has filed a Civil suit before the Civil Court at Umerkote, which is now under subjudice.

On 17.04.2018 and 24.04.2018, the learned Advocates filed copy of judgment in C.S. No.16/2009 passed by the learned Court of Civil Judge(Senior Division), Nabarangpur and plaint copy in C.S. No.13/2016 filed by the present Petitioner in the learned Court of Civil Judge(Senior Division), Umerkote. The learned Advocate for the Opposite Party has argued that since Civil Suit bearing CS No.13/2016 is pending in the learned Court of Civil Judge (Senior Division), Umerkote filed by the same petitioner against the same Opposite Party for the same case land, the present Revision Petition is not maintainable in the eyes of law and accordingly he has prayed to dismiss the Revision.

From perusal of the Revision Petition, it is ascertained that the Petitioner has filed the Revision Petition for Revision of Hal Khata No.31, Hal Plot No. 917 Ext.Ac.0.06 of Jharigam mouza stating that the same co-relates to Sabik Khata No.94/20, Sabik Plot No.209/2002 which has been purchased by the Petitioner vide RSD No.153/1994.

Further, from perusal of the Para Wise Report furnished by the Addl. Sub Collector, Settlement, Jeypore, it is reported that in course of preparation of draft records in Khanapuri stage, the corresponding Hal Plot No.916 Ac.3.36 and 917 Ac.0.06 co-relates to Sabik Plot No.209/2 has been enquired and reported by the Khanapuri Amin vide Yadast No.117 to be under possession of purchaser namely Khalli Charan Pradhan against Plot No.917 and Santilata Choudhury w/o Jenamani Choudhury of the same village against Plot No.916 vide RSD No.153/1994 and 154/1994 respectively. The ASO has disposed of the above Yadast and passed order to record the said plot in the name of Khalli Ch.Pradhan .Accordingly the Hal Khata No.25(now-31) was prepared. The draft records were published for a period of 60 days.The present petitioner has filed an objection petition case No.1185/1998 for correction of Hal Plots . The objection Petition has been disposed of by the ASO and passed order to that to record Hal Plot No.918 in the name of present Petitioner as per possession.Hence, the Hal Plot No.917 is transferred to Hal Khata No.235 in the name of Santilata Choudhury w/o Jenamani Choudhury. As such, the Hal Plot No.917 now exist in Hal Khata No.235 of Jharigam mouza.The said scheduled land has not shown in CS No.13/2016.

Further, it is observed that the petitioner has wrongly filed the instant Revision Petition praying for Revision of Hal Khata No.31 bearing Hal Plot No.917 of Jharigam mouza, whereas Hal Plot No.917 exist in Hal Khata No.235 in the name of Santilata

Choudhury w/o Jenamani Choudhury and the said Hal Khatadar namely Santilata Choudhury has not been impleaded as party to this case.

In view of the elaborate discussions made supra and since the petitioner has wrongly filed the case mentioning wrong schedule of land and the Hal Khatadar of the said land has not been impleaded as a party to the case, I am of the opinion that the Revision Petition filed by the Petitioner is not maintainable in the eye of law. Hence, I am inclined to order that the Revision Petition filed by the above named Petitioner is liable to be rejected, so it is rejected.

Order pronounced in the Open Court on this day the 19thday of June, 2018.

Sd/-
Collector, Nabarangpur

O.S.S.A. Revision Case No. 24 of 2018

Decided on 28.07.2018

(Order by Dr. Ajit Kumar Mishra, OAS (SAG),
Collector, Nabarangpur)

Collector, Nabarangpur on behalf of Abhimanyu Bissoi ... **Petitioner**

-Versus-

Additional Sub-Collector, Settlement, Jeypore & others ... **Opp. Parties**

ORDER

This case is taken up todayS.R. back duly served on both parties. The Petitioner is present and filed hazira The Opposite Partyis absent on call in spite of due service of notice, hence heis hereby made ex-parte. Heard the petitioner. Verified the original Sale deed.Perused the record. The story of the case in gist is as follows-

This case has been instituted on the strength of receipt of Notification No.23966/RDM dated 21.07.2017 of Government in Revenue & Disaster Management Department, Odisha, Bhubaneswar, wherein the State Government have delegated the powers of Board of Revenue, Odisha under section 6-D, 15 & 25 of the Odisha Survey & Settlement Act,1958(Odisha Act 3 of 1959), in favour of the Collector, Nabarangpur to exercise the powers and perform duties under the above provisions in respect of Nabarangpur district for the purpose of early disposal of revision cases.

In this connection, it is pertinent to mention here that, the land of the Petitioner was acquired in connection with construction of Upper Indravati Hydro Electricity Project Dam. The Government paid compensation to the aforesaid displaced person and out of the said compensation money he has purchased following scheduled

landed property from the vendors on the **Registered Sale Deed bearing No.509/1990** basing on the Sabik ROR-

Mouza	Sabik Khate No.	Sabik Plot No.	Extent
Khuntiaguda	62/75	61	0.16
		62	1.13
		76	0.11
	Total		**1.40**

In the meanwhile settlement operation in respect of the village was completed and final Hal ROR was published.The aforesaid displaced person was not able to appear before the Settlement authorities during Settlement Operation due to his ignorance and illiteracy for which he has been deprived of his right for recording of the purchased case land in his favour.

That, due to the above facts, the landed property purchased by the above named displaced person from the Vendors was again recorded in the name of the Vendors instead of the Vendees by the Settlement authorities during Hal Settlement operation without having any right, title and possession though the landed property was sold by the vendors.

The Indravati Budi AnchaliyaGana Parishad is demanding for mutation of the purchased land in their favour.

Considering the gravity of the case of the above named displaced person, the instant suo-moto Revision case u/s 15(b) of Odisha Survey & Settlement Act,1958 has been instituted in respect of the following scheduled Hal Khata, which is presently recorded in the name of **Kanhei Sahu S/o PanchananSahu,Caste-Sundivill-Khuntiaguda**–

HAL ROR

Mouza	Khata No.	Plot No.	Extent
Khuntiaguda	9	180	0.11
		190	1.13
		192	0.16
	Total		1.40

The District Sub Registrar,Nabarangpur has supplied certified copy of the Registered sale deed bearing No.**509/1990**Perusal of the said Registered sale deed reveals **Kanhei Sahu S/o late Panchanan Sahuof vill-Khuntiaguda**had sold the case land measuring **Ac.1.40** bearing **Sabik Khata No.62/75, Plot No.61, 72 & 76of Khuntiaguda mouza** under Tentulikhunti Tahasil of Nabarangpur district to **the Petitioner**after receiving theconsideration moneyfrom the vendor and the

said vendor hadtransferred the right, title, interest and possession to the vendee over the case land. During the Hal settlement, the vendee/petitioner due to his ignorance could not able to produce the sale deed before the Settlement authorities, for which the land in question has been recorded in the name of the **Opp.Party**.

The Settlement Officer, Jeypore supplied copies of Yadast, Sabik ROR, Draft Khatian in respect of the case land. From perusal of Registered Sale deed, Yadast, Draft Khatian, it is revealed that the present Petitioner has purchased the case land from the Sabik Khatadar. As such, I am of the opinion that the prayer of the petitioner for recording of ROR in respect of the case land in his favour is genuine.

In view of the above and in order to sort out the problems of the displaced persons and to implement the directions of Hon'ble Human Rights Commission issued in NHRC case No.1131/18/6/2013, I am inclined to allow the revision of the **Hal Khata No.9 , Hal Plot No.180 Ac.0.11, Hal Plot No.190 Ac.1.13 and Hal Plot No.192 Ac.0.16of Khuntiaguda mouza**to record in the name of the petitioner **Abhimanyu Bissoi S/o Bana Bissoi, village-Khuntiaguda, Caste-Sundi.** The Tahasildar, Tentulikhunti is directed to make necessary corrections of aforesaid Hal ROR in the name of thePetitioner**Abhimanyu Bissoi S/o Bana Bissoi village-Khuntiaguda, Caste-Sundi**and issue ROR accordingly.

Send the extract of orders to the Tahasildar, Tentulikhunti to implement the orders and for taking necessary action. Also, free copy of the extract of orders, be supplied to the Petitioner.

Order pronounced in the open Court on this day the 28th July, 2018.

Sd/-
Collector, Nabarangpur

O.S.S.A. Revision Case No. 318 of 2018

Decided on 31.12.2019

(Order by Dr. Ajit Kumar Mishra, OAS (SAG),
Collector, Nabarangpur)

Sudhir Prasad Sahu ... **Petitioner**

-Versus-

Bhuban Gouda & others ... **Opp. Parties**

ORDER

This case is taken up today on the strength of joint advance petition filed by the learned Advocate for the petitionerand opposite party.The case was initially posted on 09.07.2019 for hearing, but due to strike by the Bar Association, the case could not be taken up on that date. The notices issued to the Opposite parties to appear

in the Court on 09.07.2019 was duly served on them and served copies returned back.The learned Advocate for the Opposite party No.1 to 7has filed vakalatnama on behalf of the Opposite party No.1 to 7and also filed affidavit duly affirmed by the said Opposite parties. Heard the learned Advocates for both parties and accepted the Vakalatnama filed by the learned Advocate Sri Ram Prasad Patra on behalf of the O.P.No.1 to 7.Perused the record. The factual matrix of the case in gist is as follows-

The prayer of the petitioner as revealed from the Revision petition is that the petitioner has purchased a piece of land to an extentof Ac.0.52pertaining to Sabik Khata No.88, Sabik plot No.46of Nuakote mouzafrom the Opposite Party No.1 to 7 vide RSD No.374/2013 dated 06.03.2013, which is presently recorded in Hal Settlement Record under Hal Plot No.102 of Hal Khata No.211in the names of deceased father & grandmother of O.P.No.1. However, the Petitioner could not approach the settlement authorities during Hal Settlement operation since he was away from suit village in order to earn his livelihood. As a result the suit plot has been recorded in the name of deceased father and grandmother of O.P.No.1.

Accordingly, the petitioner preferred this Revision being aggrieved by the impugned final publication of ROR of corresponding Hal Khata No. 211 with Hal Plot No.102, Ac.0.50 of Nuakote mouza under Papadahandi Tahasil.

The Petitioner has filed (1) certified copy of Draft Khatian No.211 of Nuakote mouza (2) Yadast (3) Xerox copies ofRSD No.374/2013(4) Affidavit (5) Certified copy of Sabik Khata No.88 of Nuakote mouza,(6) Certified copy of Hal ROR of Khata No.211 of Nuakote mouza in support of his claim. The opposite Party No.1 to 7 through their Advocate have filed affidavit stating that the petitioner has purchased the case land and in peaceful possession.Further, they have affirmed in the affidavit to the effect that they have no objection for correction of suit land in favour of the petitioner .The ASO, Jeypore has furnished PWR which shows that the Sabik case land co-relates the Hal Khata No.211, Hal plot No.102 of Nuakote mouza, which has been finally published on 21.10.2014.

Further, from perusal of field Possession Report furnished by the Tahasildar, Papadahandi vide letter No.2160 dated 20.12.2019, it is revealed that the Sabik Khata No.88, Sabik Plot No.46Ac.0.52ofNuakote mouza co-relates to Hal Khata No.211, Hal Plot No.102Ac.0.50, whichis recorded in Hal Khata in the name ofDeba Gouda S/o Durjan Gouda and Tulabati Gouda W/o Durjan Gouda. Further, the Tahasildar, Papadahandi has reported that the Petitioner is in peaceful cultivating possession over the aforesaid Hal Plotto an extent of Ac.0.50since the date of purchase.

In view of the elaborate discussions made supra, I am convinced with the prayer of the Petitioner and hence, I am inclined to accept the delay condonation Petition and to allow the Revision Petition filed by the Petitioner. The Tahasildar,

Papadahandi is directed to correct the Record of Right in respect of Hal Khata No.211, Hal Plot No.102 Ext. Ac.0.50, Kissam Dangar of Nuakote Mouza in the name of the Revision Petitioner Sudhir Prasad Sahu S/o Saraju Prasad Sahu, Caste-Sundi of village Mudiguda, post-Nuakote and issue ROR to the said Petitioner accordingly.

Send the extract of orders to the Tahasildar, Papadahandi to implement the orders and for taking necessary action.Also, free copy of the extract of orders, be supplied to the Petitioner.

Order pronounced in the Open Court on this day the 31st day of December, 2019.

Sd/-
Collector, Nabarangpur

OSARC No. 1004 of 2016

Decided on 23.03.2019

(Order by Sri T. Ao, I.A.S.
Revenue Divisional Commissioner (SD), Berhampur)

Raj Kumar Behera & others ... **Petitioners**

-Versus-

Asst. Settlement Officer, Phulbani & others ... **Opp. Parties**

For the Petitioner .... Sri H.C. Maharana, Advocate

For the OPs. ..... Sri Jitendra Ku. Sahu, Advocate

Prayer

Revision Petition filed U/s 15(b) of OS &S Act, 1958 to delete the names of the respondents from Hal Khata No. 23 of Pirikudi Mouza of Khajuripada Tahasil of Kandhamal district.

Contention

The suit lands were recorded in the names of late Dharanidhar Behera, Chandra Sekhar Behera, late Mahendranath Behera and Prafulla Behera who are natural brothers. As per family decision and being purchased by the elder brother late Dharanidhar Behera, the other RTs Chandra Sekhar Behera, late Mahendranath Behera and Prafulla Behera relinquished their right from Sabik Plot No.164 & 182 of Sabik Khata No. 21 and delivered their possession to late Dharanidhar Behera. Accordingly, the suit lands were mutated in favour of Late Dharanidhar Behera in MC Case No. 232/83 by Tahasildar, Kandhamal. Thereafter the petitioners are in

peaceful possession of the suit lands and are paying rent regularly. During last settlement finalised in the year, 2013 the corresponding Hal Plot No. 200 and 219 of Hal Khata No. 23 of Pirikudi mouza were recorded jointly in the name of the petitioners as well as respondents. Hence the petition to delete the names of respondents from the Hal ROR

Documents enclosed:-

- Copy of ROR No. 23 Published on 18.09.2013.
- Copy of Objection Case No. 311/12 for correct records of Hal Plot No. 200 & 219 of Hal Khata No. 23.
- Copy of application dtd. Nil for filing of objection Case no. 311/2012.
- Copy of Amin enquiry report in objection Case no. 311/12.
- Copy of ROR No. 18 published on 16.02.1975.
- Copy of Rent receipts for Khata No. 18 for the year 2008-09, 2009-10, 2010-11, 2011-12, 2013-14 & 2014-15.
- Copy of ROR No. 21 published on 16.12.1975.
- Certified copy of order sheet of MC No. 232/83.
- Copy of application dtd. 01.03.1983 of Dharanidhar Behera to delete the name of OP No. 4, father of OP No. 5 & 6 and OP No.7 from ROR No.21.
- Copy of application dtd. 29.01.2013 of OP no 4, 5, & 7.
- Copy of Death Certificate dtd. 30.10.2017 of Renuka Behera.
- Copy of Rent receipt for Khata No. 18 for the year, 2008-09, 2009-10, 2010-11, 2011-12, 2014-15 & 2013-14.
- Copy of Death Certificate dtd. 08.12.2015 of late Dharanidhar Behera issued by BMC, Bhubaneswar.
- Copy of Voter Id No. OR/15/104/260215 of Raj Kumar Behera.
- Copy of Voter ID No. MDG1558402 of Rajib Kumar Behera.
- Copy of ROR No. 42 published on 16.05.2014.
- Copy of Notice issued for MC case No.232/1983.
- Copy of ROR No. 441published on 16.05.2014.
- Copy of ROR No. 21 published on 16.05.2014.
- Copy of ROR No. 11 published on 18.09.2013.
- Copy of ROR No. 23 published on 18.09.2014.
- Copy of ROR No. 22 published on 16.05.2014.

- Copy of ROR No. 47 published on 30.04.2014.
- Copy of report of RI, Gudari dtd. 10.12.2018.
- Copy of Yaddast No. 13 instituted for correct records of Sabik Khata No. 21.
- Statement dtd. 09.12.2017 of Chandra Sekhar Behera.

Land schedule

Sl No.	Mouza	Sabik Khata No.	Sabik Plot No.	Area	Hal Khata No.	Hal Plot No.	Area
1	Pirikudi	21	164	Hc. 0.070R	23	219	Hc. 0.070R
		21	182	Hc. 0.106R	23	200	Hc. 0.106R

Date wise briefing

- On 13.11.2017, the Advocate for the petitioners was present. The respondents were also present. The petitioner Rajib Kumar Behera was also resent. The Advocate for the petitioner submitted that Smt. Renuka Behera (mother of the petitioners) died on 30.10.2017. The Advocate for the petitioner was directed to submit death certificate of Smt. Renuka Behera along with her legal heir certificate.
- On 11.12.2017, the Advocate for the petitioners was present and filed death certificate of Smt. Renuka Behera and certified copies of other relevant documents relating to the case. The Advocate for the respondents filed counter claiming that the said relinquishment deed, statement of purchasing the land and mutation proceedings are not sustainable in the eye of the law.

The Tahasildar, Khajuripada was asked to furnish detail property of the petitioners as well as OPs jointly/ individually in the said village and other villagers within the jurisdiction of the Tahasil along with copy of case record of MC No. 232/ 1983.

- On 10.01.2019, the Advocate for the petitioners was present. Advocate for the respondents was present.The respondent Saroj Kumar Behera, Chandra Sekhar Behera and Prafulla Kumar Behera were present. The petitioner Rajib Kumar Behera was also present in the court. The Advocate for the respondents submitted that the claim of the petitioners regarding purchase of suit land is false and they have no registered documents to substantiate their claim. The suit lands were ancestral properties of all the parties and have never been partitioned. He further claimed that the signatures of Chandra Sekhar Behera, late Mahendranath Behera, Prafulla Behera in case record of M.C. No 232/83 are forged. The Yaddast report dtd.27.06.1998 clearly shows that ASO, Phulbani ordered to record all ancestral lands jointly in the name of late Dharanidhar Behera along with his three natural brothers. According to MC case No.232/83, the father of the petitioners purchased the suit land and it was recorded in the name of the father of the petitioners

on consent of all his natural brothers. All the ancestral properties have been partitioned and all parties are residing on their allotted shares of land. The settlement authorities wrongly recorded the land jointly in the name of the father of the petitioner along with OPs ignoring the order passed in the mutation case.

Both the parties were directed to establish in the court that the mutation case and current settlement were finalised following due Procedure.

- On 17.01.2019, in spite of prior issue of notices, none of the parties were present on call.
- On 24.01.2019, In spite of prior issue of notices, the Advocate for the petitioner was absent on call. The Advocate for the respondents was present. The Advocate for the respondents submitted that the suit properties are their ancestral properties which had never been partitioned and late Dharanidhar Behera was a Govt. servant. He further submitted that as a Govt. servant, late Dharanidhar Behera, if at all he had purchased the land as claimed by the petitioner must have taken permission to purchase the same from his higher authorities. The petitioner should therefore provide documents in that regard.
- On 11.02.2019, the Petitioner Raj Kumar Behera was present and proved his identity vide Voter ID no. OR/15/104260215. The petitioner submitted that Sabik Plot No.164 and 182 were purchased by his late father out of his own income being a Govt. Servant & was in his possession since 1983. The petitioner is asked to submit relevant RSD to prove purchase of the land.
- On 01.03.2019, the Advocate for the petitioner was present. Respondents Prafulla Behera and Chandra Sekhar Behera were present. Petitioners Raj Kumar Behera and Rajib Kumar Behera were also present. The Advocate for the respondents was also present. The Advocate for the petitioner submitted that mutation has been made in the proper way but as the certified copy of the mutation case was not available with them at the time of Settlement, they could not produce the same before the settlement authority. If mutation was not done in a proper way as alleged by the OPs, they could have challenged it in proper forum.

The Advocate for the OPs submitted that in the mutation application, late Dharanidhar Behera mentioned that the suit property is self-acquired. Thus, petitioner is required to prove that the suit land was self-acquired property of late Dharanidhar Behera. In this context the Advocate for the OP cited judgement dtd. 06.09.2017 in Civil appeal Case No. 11220/2017 arising out of SLP (L) No. 5664/2012. He further submitted that the petitioner should produce copy of permission letter of late

Dharanidhar Behera as a Govt. Servant to purchase the suit land under OGSC rules, 1959. The ancestral properties have never been partitioned. The petitioner is required to produce copy of the RSD, copy of payment receipt to the vendor for purchase of suit land. The OP Prafulla Behera present in the court submitted that he along with Brothers Chandra Sekhar Behera & late Mahendra Kumar Behera went to Tahasil Office to sign in the Mutation record.

ORDER

This case was heard for the final time on 23.03.2019. Advocates for the petitioners as well as Advocate for the OPs were present. During deliberation, the Advocate for the petitioners stood on the contention of the revision petition and the Advocate for the OPs stood on the contention of the Counter filed by the opposite parties.

The PWR was submitted by the S.O., Kandhamal vide his letter No. 804 dtd. 28.08.2017 which reveals that

The Sabik Plot No. 27, 158, 164 and 182 under Sabik Khata No. 21 were recorded in the name of Dharanidhar Behera, Chandra Sekhar Behera, Mahendranath Behera and Prafulla Kumar Behera, all are S/o- Balabhadra Behera of vill- Jalanga Padar.

The Petitioners claim that the Sabik Plot No.164 and 182 have been purchased by Dharanidhar Behera and got the plots mutated in his name vide M.C. No. 232/83 dtd 28.04.1983 of Tahasil Office, Kandhamal.

Accordingly, the Tahasil Patta was issued to the purchaser by deleting the names of other three brothers. But during the current settlement operation the Petitioners being the legal heirs of the deceased father Dharanidhar Behera failed to produce Tahasil mutated Patta both in Khanapuri stage and Rent and Appeal stage. As such the plots were kept intact as per the Sabik record.

Also perused the field verification report of the Tahasildar, Khajuripada submitted vide his Letter No.3223 dtd. 19.12.2018 which reveals that:

As per M.C. Case No. 232/83 the following plots of Pirikudi mouza are recorded as under:

- Khata No. 42 area Hc. 0.746R is recorded in the name of Dharanidhar Behera, Chandra Shekhar Behera, Mahendra Behera, Prafulla Kumar Behera (All are s/o- Balabhradra Behera).
- Khata No. 41, area Hc. 0.492R is recorded in the name of Dharanidhara Behera) Khata No. 21, Area Hc. 0.385R is recorded in the name of Chandra Sekhar Behera
- Khata No. 11, Area Hc. 0.412 is recorded in the name of Chandra Sekhar Behera

- Khata No. 23, area Hc. 0.328R is recorded in the name of Dharanidhar Behera, Chandra Sekhar Behera, Mahendra Behera, and Prafullla Behera.
- Khata No. 22, Area Hc. 0.097R is recorded in the name of Dharanidhar Behera
- Khata No. area Hc. 0.127R is recorded in the name of Dharanidhar Behera, Chandra Sekhar Behera, Prafulla Kumar Behera.

The Tahasildar, Khajuripada has further intimated that the suit lands are lying vacant at present.

In the instant case, the petitioners challenged the settlement process conducted in Pirikudi Mouza for settlement of the suit land along with other adjacent lands which was finalised in the year, 2013. They submitted in the plaint that the suit lands were purchased by late Dharanidhar Behera and were wrongly recorded in favour of late Dharanidhar Behera along with his three natural brothers.

As per family decision, the three natural brothers of late Dharanidhar Behera relinquished their right over plot No. 164 and 182 and delivered their possession to their elder brother. Thus, instead of recording the suit lands exclusively in the name of late Dharanidhar Behera, the same have been wrongly recorded in the name of Dharanidhar Behera, Chandra Shekhar Behera, Mahendra Behera, Prafulla Kumar Behera

In the counter filed by the Advocate for the OP No 4 to 7, it is seen that the OPs have contested the veracity of the mutation deed issued by the Tahasildar, Kandhamal in M.C. Case No. 232/83 during hearing in this Court, wherein the Tahasildar, Kandhamal in his order dtd. 18.04.1983 recorded the suit lands in favour of the petitioner. The Advocate for the OPs submitted that if the father of petitioner purchased the said land, the petitioners should intimate the name of vendor to the court along with RSD through which they have purchased the suit lands. Further they urged the court to direct the petitioners to submit the permission letter issued in favour of the father of petitioners by the state Govt. being a Govt. servant. The Advocate for the OPs further submitted that no where in the MC Case record, there is signature of the OPs to prove that they attended the court of the Tahasildar, Kandhamal. Further as per section 17 of Registration Act, 1908, a registered relinquishment deed is mandatory for relinquishment of property by the RTs.

For better appreciation of the case, it is mentioned here that the mutation ROR issued by Tahasildar, Kandhamal in MC case No.232/83 is challenged by the respondent No.4 to 7 of this case and Settlement ROR published on 18.09.2013 is challenged by the Petitioners of this case. On verification of PWR, it is seen that the Settlement authorities cited non-submission of copy of Mutation ROR by the Petitioners during settlement operation as the reason for non-recording of the suit lands in favour of the Petitioners. But Yaddast No.13 filed for correct recording of Hal Plot No. 200 and 219 shows that late Dharanidhar Behera gave his consent for

joint recording of suit Plots in the name of Khata No.21 in the name of himself and his three natural brothers namely: Sri Chandra Sekhar Behera, late Mahendra Behera and Prafulla Kumar Behera.

Filing of Objection case No.311/12 by Dharanidhar Behera before the ASO for recording of Hal Plot No. 200 and 219 in his name clearly disproves the claim of the Petitioners that they were ignorant about the Settlement process.

Similarly on verification of copy of Mutation case record of MC case No.232/83, it is seen that there is no mention of issue of notice to Chandra Sekhar Behera, Mahendra Behera, and Prafulla Behera and their signature is missing in the Mutation case record. Further the signatures of Chandra Sekhar Behera, Mahendra Behera, and Prafullla Behera contained in the application Dtd.29.03.1983 for relinquishment of their shares do not tally with their signatures obtained in the court. Thus, there is prima facie evidence of procedural error committed in disposal of the mutation case. So far as Mutation case is concerned, appellate forum is prescribed in Rule 42 of Mutation Manual. But the respondents have not challenged the orders of Tahasildar in the appropriate forum. Further Tahasildar, Khajuripada has intimated in his field verification report that the land is lying vacant without cultivation.

Though the Court directed the petitioner several times to produce RSD in proof of his purchase of the suit land and also to produce permission letter issued u/r 21 of OGSC Rules, 1959 from competent authority for purchasing the suit land but, he expressed his inability to submit any such document in the court.

In this context summary of orders Dtd.06.09.2017 of the Hon'ble Supreme Court passed in Civil appeal No.11220/2017(arising out of SLP(C) No.5664/2012) filed by Adiveppa & others -Vrs-Bhimappa & another is reproduced below which reveals that:

- xxxxx Adiveppa - the head of family owned several acres of agricultural land. He died intestate. The dispute started between the two sons of Hanamappa and their uncle-Bhimappa and Aunt-Gundavva after the death of Adiveppa and Haamappa. The disputes were regarding ownership and extent of shares held by each of them in the agricultural lands.
- Adiveppa and Yamanappa (appellants herein) filed a suit (O.S.No.85 of 2001) against-Bhimappa and Gundavva (respondents herein) and sought declaration and partition in relation to suit properties described in Schedule B, C and D.
- The declaration was sought in relation to the suit properties in schedule B and C that these properties be declared as Plaintiffs self-acquired properties.
- The trial court framed the issues and parties adduced their evidence. By judgement/decree dated15.07.2006, the trial court dismissed the suit. It was held that the Plaintiffs failed to prove the suit properties specified in Schedule B and C to be their self-acquired properties. Xxxxxxxx

- The plaintiffs felt aggrieved and filed first appeal before the Karnataka High Court. By impugned judgement; the High Court dismissed the appeal and affirmed the judgement/decree of the trial court giving rise to filing of this appeal by way of special leave before this court by the plaintiffs. Xxxxxx
- It is a settled principle of law that the initial burden is always on the plaintiff to prove his case by proper pleading and adequate evidence (oral and documentary) in support thereof. The Plaintiffs in this case could not prove with any documentary evidence that the suit properties described in Schedule B and C were their self-acquired properties and that the partition did not take place in respect of Schedule D properties and it continued to remain ancestral in the hands of family members. On the other hand, the defendants were able to prove that the partition took place and was acted upon.
- In order to prove that the suit properties described in Schedule B and C were their self-acquired properties, the plaintiffs could have adduced the best evidence in the form of a sale-deed showing their names as purchasers of the said properties and also could have adduced evidence of payment of sale consideration made by them to the vendee. It was, however, not done.
- Not only that, the Plaintiffs also failed to adduce any other kind of documentary evidence to prove that self-acquisition of the schedule B and C properties nor they were able to prove the sources of its acquisition. Xxxxxxxx
- We have, therefore, no hesitation in upholding the concurrent findings of the two courts, which in our opinion, are based on proper appreciation of oral evidence. Xxxxxxxx
- We have considered this submission but find no merit in the light of what we have held above. At the cost of repetition, we may observe that if the plaintiffs failed to prove their main case set up in the plaint and thereby failed to discharge the burden, we can not accept their any alternative submission which also has no substance.
- In the result, we find no merit in the appeal. It fails and is accordingly dismissed.

This case is similar in many ways to the case of Adiveppa & others -Vrs- Bhimappa & another. In this case also Petitioners failed to adduce any evidence in support of purchase of the land and thus the Mutation record automatically invites doubts over its authenticity, or that prescribed procedure was adopted during its disposal.

Findings

- The ROR No. 21 shows that the Sabik RT of the suit land were late Dharanidhar Behera, Chandra Shekhar Behera, Mahendra Behera, Prafulla Kumar Behera.

- The Mutation case record reveals that Sri Chandra Sekhar Behera, late Mahendra Behera and Prafulla Kumara Behera who are OPs in this case have not been noticed to attend the hearing in the court of the Tahasildar, Khajuripada.

Further there is no signature of Sri Chandra Sekhar Behera, late Mahendra Behera and Prafulla Kumar Behera anywhere in the Mutation case record to prove their presence in the court.

- The Signatures of Sri Chandra Sekhar Behera and Prafulla Kumar Behera in application dtd. 29.03.1983 said to have been filed before the court of the Tahasildar, Khajuripada do not tally with the signatures of Sri Chandra Sekhar Behera and Prafulla Kumar Behera recorded in this court. Thus, there is primafacie evidence of procedural irregularity committed during mutation process.

- A verification of the Yaddast No.13 filed for correct recording of Hal Plot No. 200 and 219 Dtd.6.6.1998 shows that late Dharanidhar Behera gave his consent for joint recording of suit Plots in the name of Khata No.21 in the name of himself and his three natural brothers namely: Sri Chandra Sekhar Behera, late Mahendra Behera and Prafulla Kumar Behera.

- The PWR shows that the Petitioners failed to produce mutation ROR during any stage of Settlement.

- Further Objection case No.311/12 shows that the same was filed by Dharanidhar Behera before the ASO for recording of Hal Plot No. 200 and 219 in his name and his signature in the case record shows that he had attended the Court of ASO during hearing. This shows that due opportunity was given to late Dharanidhar Behera and the Petitioners during Settlement process to establish their claim and due to non-submission of any supportive documents, the claim of Dharanidhar Behera to settle the suit Plots in his name could not be entertained.

- Tahasildar, Khajuripada has intimated in his field verification report that the land is lying vacant without cultivation.

As such the revision is disallowed as the Petition has no merit for consideration.

This revision is disposed off accordingly.

Sd/-
Revenue Divisional Commissioner
Southern Division, Berhampur

Settlement Revision Petition No. 52 of 2017

Decided on 30.11.2021

(Order by Sri Pratap Chandra Rout, OAS (SS)
Commissioner Consolidation, Bhubaneswar)

Shree Jagannath Mahaprabhu Bije, Puri ... **Petitioner**

-Versus-

Sri Raghunath Jew, Puri & another ... **Opp. Parties**

For the Petitioner .... Mr. A. P. Mishra, Advocate

For the O.P. No. 1 ..... Mr. S. Das, Advocate

For the O.P. No. 2 ..... Mr. B. C. Mohanty, Standing Counsel

O R D E R

This revision has been filed u/s 15(b) of the O.S.S Act, 1958, by Shree Jagannath Mahaprabhu Bije, Puri marfat Temple Managing Committee through Administrator, Shree Jagannath Temple, Puri challenging the impugned Record of Rights in respect of Hal khata No. 191 with an area Ac59.550 dec of village Sankarpur.

The Land Schedule involved in this case is given below :

Mouza-Sanakarpur, P.S- Puri Sadar, P.S.No.93, Tahasil- Puri Sadar, Dist- Puri

Hal Khata No. 191	Plot No.78	Area Ac0.150
	Plot No.1291	Area Ac 2.450
	Plot No.1305	Area Ac7.020
	Plot No.1306	Area Ac0.410
	Plot No.1307	Area Ac1.060
	Plot No.1356	Area Ac0.840
	Plot No.1357	Area Ac6.200
	Plot No.1311	Area Ac17.210
	Plot No.1303	Area Ac8.500
	Plot No.1304	Area Ac0.940
	Plot No.1310	Area Ac5.500
	Plot No.1309	Area Ac8.700
	Plot No.1302	Area Ac0.570
Sabik Khata No.53,	Plot No. 254, 255, 257, 259, 255 / 351, 260, 232, 242, 243, 244, 246, 45 and 253	

The case of the petitioner Shree Jagannath Mahaprabhu Bije Puri marfat Managing Committee is that the Case Land relates to village Sankarpur under Puri Sadar Tahasil vide hal Consolidation khata No. 191 with an area of Ac.59.55dec corresponding to 1977 Settlement khata No. 53, plot No. 254, 255,257,259,255/351, 260, 232,242,243,244,246,45 and 253. In 1977 ROR the case land stands recorded in the name of Shree Jagannath Mahaprabhu marfat Sankararcharya Bharat Bhusan Tirtha- Swami Guru Madhusudan Tirtha Swami. The Learned Counsel for the petitioner contends that the land has been endowed to Lord Jagannath and the recorded marfatdar is a mere Manager. After enactment of Shree Jagannath Temple Act 1954, the Management of Endowment of the Deity vested with Shree Jagannath Temple Managing Committee as per Section-5 of the said Act and Managing Committee is deemed to be in possession over all the Deity property as per Section 33(1) of the said Act. But in consolidation ROR the case land has been recorded in the name of the O.P No.1 which is claimed illegal and prayer has been made to pass order to record the name of the petitioner Deity in respect of the suit land exclusively.

Learned Counsel for the O.P No.1 in reply to the averments of the petitioner submits that in 1927-28 Record of Rights the suit land was record in the name of one Laxmipriya Devi and the same was transferred by Laxmipriya Devi in favour of Sankararcharya Maharaj. Mahanta Sri Garudadhwaja Ramanuja Das disciple of late Mahanta Falahari Sri Basudeb Ramanuja Das filed O.S No.157 of 1980-I in the Court of Sub- Judge, Puri against Shree Jagannath Mahaprabhu through Mahanta Sri Niranjan Tirtha Swami of Sankararcharya Gobardhan Math, Puri for declaration of right, title and interest and possession in respect of the suit land. The Learned Sub- Judge, Puri pleased to declare the right, title and interest of the plaintiff in respect of the suit land accordingly on the basis of Judgment of Sub- Judge, Puri, the Tahasildar allowed the mutation in favour of the Opp.Party No.1. During Consolidation proceeding the suit land was finally recorded in favour of the Opp. Party No.1. The Opp. Party No.1 has submitted that yet the petitioner has not challenged the said judgment of the learned Sub-Judge, Puri. The Consolidation Authorities have rightly prepared the Record of Rights in favour of the Opp.Party No.1 and prayed to dismiss the revision.

I have considered the rival submission made by the parties and perused the records, there can be no dispute to the settled legal proposition that the land belonging to the Deity cannot be subjected to alienation in violation of the statutory requirement.

It has been observed in the case of Lokesh Patra and another –vrs- Commissioner of Endowment reported in 108(2009)CLT 61 that there can also be no dispute to the settled legal position that the Deity is a juristic perpetual/minor/and disable person and in respect of the property belonging to the minor and a person incapable to cultivate the holdings by reasons of physical disability or infirmity requires

protection. A Deity is covered under both the classes. The manager/trustee/pujari and ultimately the State Authorities are under obligation to protect the interest of such a minor or physically disabled person. The Deity cannot be divested of any title or rights of immovable property in violation of the statutory provisions. The object is laudable and based on public policy.

If any person claims to have acquired any kind of right in the property belonging to the Deity, the transaction is required to be ignored being illegal and the Deity becomes entitled to recover the possession as well as the right, title/interest in the property.

In the present case admittedly the suit land under sabik khata No. 53 of village Sankarpur stands recorded in favour of Shree Jagannath Mahaprabhu Bije, Puri marfat Sankararcharya Bharat Bhusan Tirtha- Swami Guru Madhusudan Tirtha-Swami Sankararcharya Math, Puri in sabik Record of Rights published in the year1977. The Learned Advocate for the petitioner has submitted that as per Section-5 of the Shree Jagannath Temple Act, 1954, the Administration and governance of the Temple and its endowments vest with the Temple Managing Committee. In support of his submission the Learned Counsel for the petitioner places his reliance in the case of the Administrator Sri Jagannath Temple Managing Committee –vrs- Siddha Math and others reported in 2016(1) O.L.R (SC)-209 wherein it has been observed that " Properties and endowments belonging to the Temple vest in the Shri Jagannath Temple Managing Committee".

As per Section-5 of the Shree Jagannath Temple Act, 1954 and in view of aforesaid decision of the Hon'ble Apex Court, Shree Jagannath Temple Managing Committee can only represent Shree Jagannath Mahaprabhu Bije, Puri.

The O.P. No.1 has submitted that Mahanta Sri Garudadhwaja Ramanuja Das disciple of late Mahanta Falahari Sri Basudeb Ramanuja Das filed O.S .No. 157 of 1980 -I in the Court of Sub-Judge, Puri in respect of the suit land. The Learned Sub-Judge, Puri pleased to declare the right, title and interest of the said plaintiff in respect of the suit land and yet the petitioner has not challenged the said judgment of the Learned Sub-Judge, Puri. In support of his claim the Opp.Party No.1 filed certified copy of the plaint and judgment passed in O.S. No. 157 of 1980-I. After perusal of the plaint it appears that Mahanta Sri Garudadhwaja Ramanuja Das disciple of late Mahanta Falahari Sri Basudev Ramanuja Das of Jeer Swami Math, Balisahi, Puri has filed O.S. No. 157 Class-I of 1980 against only Defendant Jagannath Mahaprabhu through Mahanta Sri Niranjan Tirtha Swami of Sankararcharya Gobardhan Math, Puri for declaration of his right, title and interest by way of adverse possession in respect of khata No.53 Ac68.96dec including the present suit sabik plot No.254,255,257,259,255/351,260,232,242,243,244,246,45 and 253.

The Learned Advocate appearing for O.P No.1 places his reliance on a decision of our Hon'ble Apex Court in the case of Vasudev Dhanjibhai Modi Vs. Rajabhai Abdul Rehman and Ors reported in AIR 1970 SC 1475 wherein it has been held that; " A Court executing a decree cannot go behind the decree between the parties or their representatives; it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set-aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties." Advocate for the O.P No.1 further places his reliance on a decision of Hon'ble High Court of Orissa in case of Parameswar Ray and Ors. Vs. Rameswar Ray reported in 2017(II) OLR 1146 and Shiba Narayan Ray Vs. Radhagobinda Dev Bije Nijigruha and Ors. Reported in 2018(I) CLR (SC) 568 wherein it has been held that; "Until it is set-aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties." In both the said decisions it has been observed that the Civil Court decree is always binding to the parties. In the case at hand it is to be seen whether the present petitioner Shree Jagannath Mahaprabhu Bije, Puri marfat Shree Jagannath Temple Managing Committee is a party to the said suit No. 157 of 1980-I and order passed in the said suit is binding to the present petitioner. After perusal the plaint and judgment of the said O.S. No. 157 of 1980-I, it appears that Mahant Sri Garudadhwaja Ramanuja Das has filed said suit against Shree Jagannath Mahaprabhu through Mahanta Sri Niranjan Tirtha Swami of Gobardhan Math. It is an admitted facts that in 1977 ROR the suit land stands recorded in favour of Sri Jagannath Mahaprabhu Bije,Puri. As per Section-5 of Sri Jagannath Temple Act, endowment of Lord Jagannath vest with Sri Jagannath Temple Managing Committee. As such only Sri Jagannath Temple Managing Committee can represent Sri Jagannath Mahaprabhu in respect of Endowment of Sri Jagannath Mahaprabhu Bije, Puri.

Shree Jagannath Mahaprabhu Bije, Puri or the present petitioner AheJagannath Mahaprabhu Bije, Puri marfat Shree Jagannath Temple Managing Committee has not been made as party in the said O.S. No. 157/80. The Learned Counsel for the petitioner has relied on the decision of our own Hon'ble High Court in a case of Purna Chandra Kodam Singh –vrs- Administrator Shree Jagannath Temple, Puri reported in 2004(1) C.LR-26 wherein it has been observed that; DECREE-Binding nature of Against a person not a party to the suit- Held, the O.P. No.1 not being a party to the suit, the decree passed therein is not binding on it and the same cannot be executed against the O.P No.1". Here, in the case at hand,1977 (sabik) ROR stands recorded in favour of Shree Jagannath Mahaprabhu Bije, Puri but in the said suit Shree Jagannath Mahaprabhu Bije, Puri has not been made as party though Shree Jagannath Temple Act, 1954 came into force in the year 1960 and as per Section-5 of Shree Jagannath Temple Act Shree Jagannath Mahaprabhu Bije, Puri

marfat Shree Jagannath Temple Managing Committee is a necessary and proper party in the said suit but Mahanta Shree Garudadhwaja Ramanuja Das without impleading the present petitioner Shree Jagannath Mahaprabhu Bije, Puri got an order from the Civil Court by way of adverse possession in respect of Ac68.96dec of land including the suit land. As such the judgment passed in O.S. No. 157/80-1 is not binding to the present petitioner.

Besides, the Hal ROR is prepared in favour of O.P. No.1 who is neither a party in the Civil Court nor the petitioner Shree Jagannath Mahaprabhu Bije, Puri has ever transferred the suit land in favour of O.P. No.1. In absence of any legal document the Lower Settlement Authorities has no jurisdiction to record the suit land i.e.; an area of Ac59.55dec in favour of O.P No.1 which violate Sec-17 of Indian Registration Act. The Opp.Party No.1 has taken a stand that in 1927 Record of Rights the suit land was recorded in favour of Laxmipriya Debi who transferred the suit land in favour of Sankararcharya Maharaj but in the 1977 Record of Rights the suit land is recorded in favour of Shree Jagannath Mahaprabhu. But the O.P. has neither filed nor relied single scrap of paper to establish that Laxmipriya Debi had transferred the suit land in favour of Sankaracharya. The Learned Advocate for the petitioner has submitted that; As per section-13 of the Survey Settlement Act, the Settlement entry is presumed to be correct unless contrary is proved and "if there is dispute between 1927 and 1977 Record of Rights, the Record of Rights published in the year 1977 is presumed to be correct". The learned Advocate appearing for the petitioner places his reliance in the case of Dasarath Singh and others –vrs- Smt. Manvati Dei and others reported in 2006(I) O.L.R.583 wherein O.S.S. Act-Section - 13 their Lordship of our own High Court held that C.P.C. Section-100 Record of Rights 1922 and 1947 Presumption- Presumption of correctness shall be attached to the latter Settlement entry till such presumption is dispelled or rebutted by convincing evidence and wherever there is conflict between the entries made in the previous Settlement Records and subsequent Settlement records, the previous survey entry will not be evidence of the State of things that existed at the time of latter entry and the party challenging the correctness of the latest entry will have to establish that is incorrect.

In above view of the matter the claim of the petitioner in the present case is allowed, impugned R.O.R is set-aside and Tahasildar, Puri is directed to record the suit land in favour of Shree Jagannath Mahaprabhu Bije,Puri marfat Shree Jagannath Temple Managing Committee.

Order Pronounced in the Open Court on this day the 30th November,2021.

Sd/-
Commissioner Consolidation,
Bhubaneswar.

Settlement Revision Petition No. 339 of 2017

Decided on 23.03.2020

(Order by Sri Chandramani Badnayak, OAS (SAG)
Commissioner Consolidation, Bhubaneswar)

Prakash Chandra Acharya ... **Petitioner**

-Versus-

State of Odisha represented through
Collector, Puri & others ... **Opp. Parties**

For the Petitioner .... Mr. Bibhuti Prasad Pattnaik, Advocate

For the Opposite Parties ..... Mr. B. C. Mohanty, Standing Counsel

ORDER

Scheduled of land-:

Mouza – Biragobindapur	**Tahasil – Satyabadi.**	
Sabak Khata No.	**Sabak plot No.**	**Area**
1399	**228**	**Ac.0.26dec**
Hal Khata No.	**Hal plot No.**	**Area**
519	**421**	**Ac.0.26dec.**

Heard. Perused the Settlement Revision Petition No. 339/2017 filed U/s 15(b) of the O.S & S Act 1958. The revision case filed by Sri Bibhuti Prasad Pattnaik, the Learned counsel for the Petitioner. The Petitioner's prayer is that-

Prakash Ch. Acharya, S/o Krushna Ch. Acharya, is the Hal recorded tenant of Hal R.O.R No. 519 of mouza Biragobindapur. The Hal plot No. 421 area Ac.0.26dec with Kissama **"Jalasaya – II"**, the suit plot stands recorded in the name of the Petitioner. The Hal plot No. 421 of Hal khata No. 519 corresponds to the Sabik plot No. 228 area Ac.0.26dec of Sabik Khata No. 1399 further corresponds to the Pre-Sabik plot No. 254 area Ac.0.26dec of Pre-Sabik khata No. 829 under mouza Biragobindpur. The Petitioner's prayer is that, the suit plot is a paddy land and as per the Pre-Sabik R.O.R No. 829, the Pre-Sabik plot No. 254 with area Ac.0.26dec is under Kissam **"Sarada"** but during the 1977 settlement the same plot wrongly recorded as kissama **"Jalasaya – II"** during Hal Consolidation operation, the kissama of the suit plot recorded as **"Jalasaya – II"** as per the Sabik records which is wrong. The Petitioner has filed this revision for correction of Kissama of Hal plot No. 421 from **"Jalasaya – II to Sarada"** as per the 1927 Pre-Sabik R.O.R.

Examined the S.R.P case record. The Summon is properly served upon the Opposite parties. The Petitioners had filed one petition U/s 5 of the Indian Limitation Act for condonation of delay which was considered and allowed. It is observed from the case record that, the suit land was stands recorded in the name of Sri Sidha

Balaram Deba Bije – Athaise Marfat Trustee Board with Bebandabasta status, which exhibits from the Pre-Sabik R.O.R No. 829 & Sabik R.O.R No. 1399 under mouza Biragobindapur. The Pre-Sabik plot No. 254 area Ac.0.26dec with Kissama "Sarada" corresponds to the Sabik plot No. 228 area Ac.0.26dec with Kissama "Jalasaya-II". The Petitioner has declared as a Bhag tenant in the suit land i.e Sabik plot No. 228 corresponds to the Hal plot No. 421 vide Order dated 15.04.1992 passes in O.L.R Case No. 10/1992 filed U/s 15(d) of the O.L.R Act. Basing upon the Order the suit land has settled in the name of the Petitionerduring Hal Consolidation operation. Accordingly the suit Hal plot 421 with area Ac.0.26dec, Kissama "Jalasaya – II" under Hal R.O.R No. 519 finally published in the name of the Petitioner during 18.12.2013.

Ground of objections-:

1) **The Revenue Officer in his Order dated 15.04.1992 passed in O.L.R Case No. 10/1992, declared the Petitioner as a Bhag tenant over the Sabik plot No. 228 of Sabik Khata No. 1399 but the Order is remain silent regarding the kissama of the said plot, where as the Sabik R.O.R finally published on 21.09.1977 speaks as the kissama of the Sabik plot 228 is Jalasaya – II. It is a controversial thing that, how a plot with kissama Jalasaya – II is fit for cultivation.**
2) **As against the letter No. 136 / dated 31.01.2020 of this court, the Tahasildar, Satyabadi has not give his field enquiry report regarding the current status of the suit plot but he has simply forwarded the report of the R.I, Satyabadi vide his office letter No.572 / dated 18.02.2020. The R.I, Satyabadi has mentioned in his report that, the measure part of the suit plot filled with bumpy and the same is not used since long. The R.I, Satyabadi has not clearly mentioned in his report that, the suit plot belongs to the agricultural land or a water body but his remarks is seems to be indicates that, the suit plot is belongs to the water body.**
3) **The statement of the Petitioner vide Para No. 9, i.e "that infact in field this Petitioner is growing paddy in the disputed land and there is no iota of evidence of Jalasaya" is controversial one as compare to the report of the R.I, Satyabadi.**

Basing upon the above observation, the prayer of the Petitioner to change the kissama of the suit plot i.e Hal plot No.421 of Hal khata No. 519 under mouza Biragobindapur from "Jalasaya – II to Sarada" as per the Pre-Sabik R.O.R No.829 of the said mouza is not maintainable. The Consolidation Authorities are rightly prepared the Hal record. Hence the Revision Petition is disallowed.

Pronounced the Order in the open Court today i.e on 23rd March 2020.

Sd/-
Commissioner Consolidation,
Bhubaneswar.

Revision Case No. 48 of 2018

Decided on 23.03.2020

(Order by Sri Chandramani Badnayak, OAS (SAG)
Commissioner Consolidation, Bhubaneswar)

Rama Chandra Mohapatra & others ... **Petitioners**

-Versus-

Sadei Pradhan & others ... **Opp. Parties**

For the Petitioners	....	Mr. Jalandhar Pradhan, Advocate
For the O.P. No. 1 to 4	.....	Mr. Manas KUmar Pattnaik, Advocate
For the O.P. No. 5	.....	Mr. Ambika prasad Mishra, Advocate
For the O.P. No. 6 & 7	....	Mr. B. C. Mohanty, Standing Counsel

ORDER

Scheduled of land-:

Mouza – Narendrapur Tahasil – Sakhigopal / Satyabadi.

Sabak Khata No.	Sabak plot No.	Area
01	403	Ac.22.370dec
Hal Khata No.	**Hal plot No.**	**Area**
211	109	Ac.5.370dec

Heard. Perused the Revision Case No. 48/2018 filed U/S 37(1) of the O.C.H & P.F.L Act1972. The revision case filed by Sri Jalandhar Pradhan, the Learned Counsel for the Petitioners. The Petitioners' case is that-

The suit land i.e area Ac.5.370dec belongs to the Hal plot No. 109 of Hal khata No. 211 under mouza Narendrapur stands recorded in the name of Bancha Pradhan, S/o Anaa Pradhan, the father of the Opposite Party No. 1 to 3 and the grandfather of the Opposite party No. 4. The suit land corresponds to the Sabik plot No. 403 area Ac.22.370dec of Sabik khata No. 01 and further corresponds to the Pre-Sabik plot No. 339 area Ac.27.440dec of Pre-Sabik khata No. 01 under mouza Narendrapur. The Petitioners are the villagers of Narendrapur and the devotees of Sri Sri Jagannath Mahaprabhu bije Puri filed this revision case for record the suit land in the name of Sri Jagannath Mahaprabhu bije puri because as per the Per-Sabik R.O.R No.1 for the year 1927 & Sabik R.O.R No. 1 for the year 1977 of mouza Narendrapur stands recorded in the name of Sri Jagannath Mahaprabhu Bile Puri Marfat Adhikari Ramakrushna Das, Adhikari Brundaban Das respectively. During

the Consolidation operation, the Hal R.O.R No. 211, Hal plot No. 109 with area Ac.5.370dec prepared wrongly & illegally in the name of the predecessor of the Opposite party No. 1 to 4 which is against the settle principle of law.

Examined the case record. The Petitioners have filed Pre-Sabik R.O.R No. 01 finally published during 25.12.1927, Sabik R.O.R No. 01 finally published during 24.08.1977, Hal R.O.R No. 211 finally published during 23.04.1984 & Plot index for the settlement of their claim.

On scrutiny of the case record it is observed that, the Pre-Sabik plot No. 339 area Ac.27.440dec, Kissam- Jala plot of Pre-Sabik Khata No. 01 finally published during 25.12.1927 under mouza Narendrapur stands recorded in the name of Sri Jagannath Mahaprabhu, Marfat- Adhikari Ramakrushna Das. Similarly the Sabik plot No. 403 area Ac.22.370dec, Kissam- Jalasaya – II of Sabik khata No. 01 finally published during 24.08.1977 under the same mouza stands recorded in the name of Sri Jagannath Mahaprabhu Bije Puri, Marfat- Adhikari Brundaban Das Goswami. During the Consolidation operation the Hal R.O.R No. 211, Hal plot No. 109 area Ac.5.370dec, Kissam- Patita which is corresponds to the above Pre-Sabik & Sabik plot of concerned Pre-Sabik & Sabik R.O.R recorded in the name of the predecessor of the Opposite party No. 1 to 4 and finally published during 23.04.1984.

In the above context, some observations of the Hon'ble Supreme Court of India, Judgement dated 16.12.2015 passed in Civil Appeal No. 7729 of 2009 are given below-

1. **As per Section 5 and 33 of Shri Jagannath Temple Act 1955, all the Endowments of Shri Jagannath Mahaprabhu Bije, Puri vested in the Temple Managing Committee.**
2. **It is a settled principle of law that, once a property is vested by an Act of legislature to achieve the laudable object, the same cannot be divested by the enactment of any subsequent general law and vest such property under such law.**
3. **The Notification dated 18.03.1974 issued by the State Government under Section 3(A) of O.E.A Act 1951 in so far as point No. (ii) is concerned, is also quashed by this court, to the extent it applies to the lands and estate of Lord Jagannath Temple at Puri.**

Further, the provision of the Orissa Hindu Religious Endowments Act 1951 so far as it relates to the temple of Lord Jagannath have been repeals by the Section 2 of Shri Jagannath Temple Act 1955. In view of the above alienation of the lands belonging to Lord Jagannath without permission of the authority vested with such power under this Act is illegal.

On the above discussion it is clear that, the preparation of the Hal R.O.R in the name of an individual is illegal & wrong, although the Pre-Sabik R.O.R & the Sabik R.O.R stands recorded in the name of Shri Jagannath Mahaprabhu Bije Puri.

The revision petition is allowed. The Tahasildar, Sakhigopal / Satyabadi is directed to record the suit plot i.e Hal plot No. 109 area Ac.5.370dec under Hal khata No. 211 of mouza Narendrapur in the name of "Shri Jagannath Mahaprabhu Bije Puri Marfat Shri Jagannath Temple Managing Committee" deleting the name of Bancha Pradhan, S/o Anaa Pradhan and the "Kissam of the suit plot corrected to Jalasaya – II from Patita"as per the Sabik R.O.R.

Pronounced the Order in the open Court today i.e on 23rd March 2020.

Sd/-
Commissioner Consolidation,
Bhubaneswar.

Settlement Revision Petition No. 22 of 2016

Decided on 20.11.2021

(Order by Secretary to Revenue Divisional Commissioner,
(Northern Division) Odisha, Sambalpur)

Jugal Kishore Mahakud & another ... **Petitioners**

-Versus-

State of Odisha & others ... **Opp. Parties**

ORDER

This case is filed by the petitioners U/S 15(b) of O.S&S Act,1958 claiming recording of following scheduled of land on the basis of possession and "Pola Kabala" unregistered document.

Sabik Khata-118 Sabik Plot -1252 Ac0.31 dec

Corresponding to

Hal Khata no-478,Plot no- 3142 Ac0.31 dec of Mouza-Kantapal

Notices were duly served to the concerned parties and SR back . Parawise report from the Settlement Officer and Concerned Tahsildar have been received.

It is submitted by the learned Advocate for the petitioner that the father of the petitioners namely Brahmananda Mahakud has purchased the above land on 26.01.1950 vide unregistered document worth of Rupees 160/- (One hundred Sixty)only from one pravakar Samal S/O- Kashi Sasmal and remained in peaceful possession over the case land without any disturbance.He further contended that the settlement authorities vide yaadast no- 3077 had passed order for recording the case plot in the name of the father of the petitioners. But in final ROR, note of forcible possession against the case plot was mentioned in the name of the father of the petitioners. He said it is evident from yaadast that the father of the petitioners was in possession of the case land since the date of purchase.

Learned Advocate further pleaded that the petitionersare in long possession of the case land continuously and consequetively with the knowlege of the opposite party no-3 without any objection . He tried to prove the adverse right of the petitioners over the case land.

The field enquiry report of the Tahsildar concerned is affirmative ,so far the possession of the petitioners concerned.

However the learned Advocate vide in para-5 of his written submission has pointed out the provision of law to be followed by the statutary authority for recording the case land in the name of the petitioners.

Law is well settled that a transfer of tangible immovable property of the value of one hundred rupees and upwards can be made only by a registered instrument.

Here the unregistered document basing on which title is claimed is of worth of Rs. 160/- (One hundred sixty). Hence the claim in this revision is totaly improbable.The unregistered document exceeding consideration money of one hundred rupeees is a clear violation of provision of sec-54 of the Transfer of Property Act.

Apart to above, this court is a revenue court lacks of jurisdiction to consider the title of a person on adverse right if any.

In the above circumstances, the claim of the petitioner is disallowed and the revision is dismissed.

Pronounced in the open court today i.e. 20th Nov., 2021.

Sd/-
Secretary to Revenue Divisional Commissioner
(Northern Division), Sambalpur

Settlement Revision Petition No. 56 of 2020

Decided on 30.09.2021

(Order by Secretary to Revenue Divisional Commissioner,
(Northern Division) Odisha, Sambalpur)

Brajabandhu Sahu ... **Petitioner**

-Versus-

Sudra Behera & others ... **Opp. Parties**

ORDER

The instant revision petition has been filed U/s 15(b) of the O.S. & S Act, 1958 by Brajabandhu Sahu, S/o- Dhobei Sahu, At-Kanakarei, Tah.-Chhendipada,

Dist-Angul claiming for recording of the case land in his name on the basis of registered sale deed. The petitioner has also filed a petition u/s-5 of the Limitation Act, 1963 for condonation of delay in filing this revision with a prayer to condone delay. The prayer of the petitioner is allowed.

Notices issued to the parties have been duly served and S.R. back. No objection has been received.

Heard the petitioner. Perused the relevant documents.

The petitioner stated that he had purchased an area of Ac.1.50 dec. of land from Sabik Plot No.127/197 under sabik Khata No.36/14 of Pirkhaman,Tah-Chhendipada,Dist-Angul from Sudra Behera, S/o-Sukuru Behera vide RSD No.1105 dated 15.05.1998. The above sabik Plot corresponds to Hal Plot No.826 under Hal Khata No.109 of village Pirkhaman, Tahasil-Chhendipada, Dist-Angul. The Sabik Khata No.36/14 of the said village was recorded in the name of Sukuru Behera, father of vendor. The father of the vendor was a lease holder which was granted to him in the year 1975. The above Sabik Khata is recorded in Hal Khata No.109 of the said village in the name of Sudra Behera & another.

The petitioner further submitted that the vendor is co-recorded tenant of hal khata who had sold the case land to the petitioner not beyond the extent of his share and after that the petitioner is in possession over the purchased land since the date of purchase.During the settlement operation ,the petitioner produced the sale deed before the settlement authority for recording of the case land in his favour and RoR bearing No.122 was issued in favour of the petitioner. Although the Settlement authority had issued RoR in favour of the petitioner, but did not send the intimation regading preparation of RoR to the concerned Tahasil Office so also the R.I office for which the RoR has not yet been published in Bhulekh and the petitioner could not pay land revenue to Govt. Hence the present revision.

In order to know the factual aspects of the case land involved in this revision petition. The Settlement Officer, Dhenkanal and the Tahasildar, Chhendipada were asked to submit the parawise comments along with field enquiry report vide letter No.1954/RA(court) dtd16.05.2020 in respect of the case land.

The Settlement Officer, Dhenkanal vide his letter No.975 dt.29.12.2020 submitted that the total khata in village Pirkhaman,Tah-Chhnedipada,Dist-Angul is 120 and the RoR bearing No.122 as mentioned by the petitioner in his revision petition is without seal and signature of settlement authority.

On perusal of records/documents submitted by the settlement authority, it is revealed that after RoR No.120,122 RoR is there in the land register which is without signature of the authority. On verification of Rent case No.283/2013, it is revealed that the petitioner could not show the sale deed before the authority for which the case land was recorded in the name of O.P.

The Tahasildar, Chhendipada has conducted field enquiry through his Revenue Inspector and submitted report to this court vide letter No.2524 dt.08.06.2020. The report of Tahasildar reveals that the petitioner is in possession of Hal Plot No.826 (Hc.0.6070) under Hal Khata No.109 of village Pirkhaman, Tahasil-Chhendipada, Dist-Angul and using the case land as fish farming right from the date of purchase to till date. The report forms a part of this order.

The above cases were listed for hearing on dated 26.07.2021 at camp court, Angul. The Settlement Officer, Dhenkanal, the Tahasildar, Angul/Chhendipada and Govt. Pleader,Angul were present in the court during the hearing. The settlement authority has produced the settlement operation related documents. After hearing all concerned and perusal of relevant records/documents, the Govt. Pleader, Angul is instructed to give his legal views in the case. The Govt. Pleader, Angul has submitted his legal views on dt.25.08.2021 that the Asst. Settlement Officer, Dhenkanal has not duly followed the procedure maintained in chapter 4 (Rule-32 to 46) of the Act. Sec-34 of the Act is very clear about the grounds on which correction of record of right and map is to be made.The Asst. Settlement officer has not adopted the grounds as mentioned in our own High Court (Odisha) provided in the case of " Harihar Mohapatra and others vrs. Commissioner, land records and settlement and others". Rule-34(e) is to be confined to matters arising after the publication of record of rights and not on the basis of facts existing prior to that (1997(i)OLR-13). He has not maintained the proper procedure and carelessly issued a record of right to the vendee in a wrong manner.Hence this court u/s-15(b) of O.S & S Act,1958 should interfered and pass necessary order to correct the record of right in favour of the purchaser. This court has already provided sufficient time, scope and opportunities to all parties concerned and heard the matter at length. The vendor has rightly executed the registered sale deeds as he was OBC at the time of registration.Hence the sale transction and sale deeds of executaion was correct and proper.Further,the vendee has also taken physical possession of the lands and utilized and developed the said land towards fish farm. No negative report is available from the side of Tahasildar, Chhendipada. Since no fault is available with the vendee, the record of right and map concerned should be corrected in the name of vendee-petitioner. The views of Govt. Pleader,Angul forms a part of this order.

In view of the above facts and circumstances, the revision is considered and allowed. The Tahasildar, Chhendipada is directed to record the purchased land in favour of the petitioner i.e. Brajabandhu Sahu within three months from the date of receipt of this order.

Pronounced in the open court today i.e. 30 th Sept, 2021.

Sd/-
Secretary to Revenue Divisional Commissioner
(Northern Division), Sambalpur

Land issue of the Displaced persons pertaining to Dadraghati MIP in Parjang Tahasil and Ramial MIP area in Kamakshyanagar Tahasil

(Order by Sri Madhu Sudan Padhi, IAS
Revenue Divisional Commissioner (ND), Sambalpur)

Decided on 25.07.2008

ORDER

Dadaraghati MIP in Parjang Tahasil and Ramial MIP in Kamakshyanagar Tahasil were two medium irrigation project which were implemented in 1970s. The displaced people of these two projects were resettled as per provisions of Rehabilitation Policy for all major and medium irrigation project, 1977. This policy was notified on 20.04.1977.

As per provisions of these policy, displaced person or family were defined as one who was being deprived of livelihood on acquisition of their land. Under the policy, Ac.0.30 of land was to be provided free of cost to each displaced family for house site. Similarly, Ac.3.00 of reclaimed irrigated land or Ac.6.00 of reclaimed unirrigated land were to be provided to each displaced family. Rs.600/- per acre for reclamation of the agriculture land (50% of which was to be released later on) was to be provided to the displaced families.

For Dadaraghati project, 427 families from four villages, namely, Jamunali, Bautinali, Bhejia and Sologaon were displaced. They were given homestead land in four villages of Parjang Tahasil, namely, Rangathali(140), Domuhani(47), Basulei(182) and Akhupal(02) and three villages in Kamakshyanagar Tahasil, namely, Kantapal(45), Jangu(01) and Khanda(10). However, they were provided agriculture land in nine villages of Parjang Tahasil and five villages of Kamakshyanagar Tahasil. The villages other than the above four villages of Parjang Tahasil are Jharanbahal, Mohanposi, Raijhara, Kadopada and Raghunathpur. Similarly, the villages other than the above three villages of Kamakshyanagar Tahasil are Adhapali and Kandhara. It is to be noted that though house sites have been provided to all the 427 displaced families, agriculture land was provided to 398 families because of difference of eligibility as per provisions of Rehabilitation Policy, 1977.

Under Ramial project, **415 families were displaced in eight villages of Telkoi Tahasil of Keonjhar District(350) and five villages of Kamakshyanagar Tahasil of Dhenkanal District(65).** The affected villages of Keonjhar district are Mundasahi, Sirishpal, Rekuti, Biripal, Gabagoda, Nuagaon, Kaliahata and Bali. Similarly the affected villages of Dhenkanal district are Biripal, Baiganpal, Kantol(Raipal), Mandiapara and Kateni. They were resettled in three villages of Keonjhar District, namely, Rekuti, Ajaypur and Bali and six villages of Kamakshyanagar Tahasil, namely, Kantapal, Kalda, Dangpal, Kankadahad, Kandhara

and Adhapali. Though house site was allotted to 415 families(22 in Keonjhar district and 393 in Dhenkanal District) agriculture land was provided to 388 families(12 in Keonjhar district and 376 in Dhenkanal district) due to differences in eligibility conditions as per provisions of Rehabilitation Policy of 1977.

As these projects were completed in July, 1979 (Dadaraghati) and July, 1980 (Ramial) by impounding of water resulting in submergence, all the displaced families were actually shifted to the rehabilitation colonies by that date. In many cases, forest land was reclaimed by clearing forests and allotting the same to the displaced families by the Tahasildar, Kamakshyanagar. It is to be noted that Parjang Tahasil was created vide Notification No.35826 dt.14.08.1996 and from 1.4.2004, it became a full fledged Tahasil. After allotment and resettlement, Tahasildar, Kamakshyanagar started lease cases for settlement of land allotted to the displaced families. The settlement operation was going on in the area during that time(1975-1984). The facts of rehabilitation of displaced families of these two projects were perhaps not intimated to the settlement authorities. As a result, most of the land allotted to displaced families in Parjang Tahasil and Kamakshyanagar Tahasil both for homestead and agriculture were recorded in government khata, i.e., the status of old(Sabik) records were maintained by the Settlement Authorities in the final publication of ROR in 1984.

Some of these displaced persons who showed the K form RORs to settlement authorities and got the final RORs for their land. For example, 59 out of 83 allotees of Agriculture land in Kankadahad village from among the Ramial project oustees got the final ROR from the Settlement authorities. Similarly, 2 allotees for Homestead and 13 allotees of Agriculture land in Akhupal village were given final ROR by consolidation authorities from among the Dadaraghati Irrigation Project outstees. Tahasildars (both Parjang and Kamakshyanagar) have also given final ROR to some of the K- Form pattadars u/r 34(e) of OSS Rules. For homestead land , 39 allotees in Rangathali village and 90 allotees in Basulei village in Dadraghati project and 306 allotees in Kantapal village under Ramial project were given final ROR by the Tahasildars. Similarly for Agriculture land, Tahasildars have given final ROR to 26 oustees settled in Rangathali, 69 in Basulei, 2 in Jharnabahal, 1 in Raijhara, 2 in Kadapara and one oustees who had been allotted agricultural land in two villages of Rangathali and Basulei in Dadaraghati project .

Taking into account No. of displaced families the allotted land, and with K' form patta (ROR) for homestead and agriculture land and those who have got final ROR for their land, it is seen that **296 allotees of Homestead and 284 allotees of Agriculture land (some of them being common) of Dadraghati project are yet to be issued with final ROR against the K form ROR issued to them**. Similarly, there are 87 allotees of Homestead land and 317 allotees of Agriculture land from amongst the displaced families of Ramial project who are yet to get the final ROR for the land allotted to them as project displaced families.

One of the main reasons for which the allotees could not get their final ROR for the land which were allotted to them and which they have been possessing for last 25 years or more is due to the fact that these lands were recorded by the Settlement authorities as JUNGLE kisam (and as other objectionable kisams like Gochar or for Jawans) in Government Khata. As noted earlier, some Tahasildars through mutation proceedings have issued final ROR for some of the project affected persons u/r 34(e) of OSS Rules, 1962. But due to a ratio of Hon'ble High Court , Orissa in OJC- 9621 of 1996, the Govt. of Orissa in Revenue Department had directed vide letter No.2525 dated. 6.5.1999 that the "**Tahasildars were barred to make changes in the ROR – if the cause of action arose before the publication of final ROR by the Settlement/Consolidation Authorities as the legal remedies for such cases were already provided U/S 15, 25 & 42 of the OSS Act,1962**".

Hence these 637 revision petitions(RP Case No.12/2007 to 666/2007 except 89/07, 90/07 and 589/07 to 602/07) have been filed U/S 15(b) of the OSS Act, 1958 in the Court of the R.D.C,ND, Sambalpur who has been delegated jurisdiction under the OSS Act, 1958. Both Tahasildar, Kamakshyanagar and Tahasildar, Parjang have filed these revision cases and have made the project displaced allotees the opposite parties. They have also filed time petition to condone delay of 23 years considering the plight of these families who have been struggling to get the land allotted to them recorded in their name after losing their home and hearth. The delay is condoned in all the Revision cases. As all cases are similar, one common order is being made for all the cases.

Most of the Rehabilitation sites/colonies for allotting homestead and agriculture land were made by clearing forest and reclaiming forest lands. As these lands recorded as forest kisam in Sabik records, the settlement authorities recorded them as 'Jungle' kisam in the Hal (current) records and placed them in Government khata. This wrong recording could have been due to either any (or combination of more than one) of the following reasons.

1. During kistwar and khanapuri stage, i.e., the survey stage of the settlement, the forest lands might have not been reclaimed as settlement operation started from 1975 onwards in Kamakshyanagar Tahasil, or,
2. When the reclaimed land allotted to the displaced families, there was a time gap in issue of interim ROR, i.e., K-form patta, for which the same could not be shown to the settlement authorities in right time for recording of land in their names, or,
3. Even if the K-form pattas were issued in time to the project displaced families, they did not show it to settlement thinking that the same record was the final record or rights (ROR), or,
4. The settlement authorities did not take cognizance to the K-form pattas even if these were shown to them.

Whatever may be the reason, a large number of displaced persons resettled in villages away from their home are without ROR of the land, which was allotted to them. Coming to the cases, there are two issues to be decided in these revision cases. They are:

1. Whether the provision of Forest Conservation Act 1980 are attracted to the case lands which are part of these revision petitions ?

2. Whether the OPs or their legal heirs/successors in interest have right, title and interest over the case land ?

Coming to the first issue, the Forest Conservation Act 1980 came into force with effect from 25.10.1980. Section 2 of the Act states that "…….**No State Government or any other authority shall make except with prior approval of the Central Government, any order directing that any forest land or any portion thereof may be used for any Non-forest purposes……..."** Presumably, use of forest land for agriculture and homestead purpose is a non-forest use.

The following sequence of event in construction of these two projects is to be considered to see if the provisions of Forest Conservation Act, 1980 is attracted or not for the case land under the RP Cases:

1. Govt. decided to implement the above two medium irrigation projects in 1973. Government issued declaration for land acquisition vide notification No.64921 dt.21.08.1975.
2. The Rehabilitation Policy for displaced and affected families for all major and medium irrigation project were notified on 20.04.1977.
3. The list of displaced families was finalized in late 1977 as per the provision of this Policy.
4. On 26.04.1978, in the Rehabilitation Advisory Committee Meeting for Dadaraghati MIP, the A.D.M, Dhenkanal informed the members that the rehabilitation work had gone far behind the schedule due to non-clearance of forest growth from the agriculture portion of the rehabilitation area of the Forest Department. DFO, Dhenkanal informed the members that he was unable to proceed with the matter in absence of Government instructions and allotment of funds amounting to Rs.2,58,750/- for the clearance work.
5. In this connection, letter of Shri N.K. Mohapatra, Dy. Secretary to Government, Irrigation & Power Department letter No. 18745 dt.25.5.1978 states that the approval of Government to proposal of Collector, Dhenkanal to clear the existing forest growth from area of 300 acres of land required for resettlement of 80 families to be displaced by Dadaraghati MIP during 1978-79. He had issued this letter with

concurrence of Fisheries and Animal Husbandry Department as per para(5) of the above letter.

6. Government decided to resettle the displaced families in the Gramya Jungle of several villages in the ayacut of the project. It also decided to allot the forest clearance and reclamation work to Orissa Forest Corporation Limited. This was communicated by DFO, Dhenkanal Division to Spl.LAO, Dhenkanal vide letter No.4939 dt.6.11.1978. In this letter, **D.F.O, Dhenkanal has categorically stated that the Government have decided that all forest area relating to Ramial and Dadaraghati Projects will be worked out by the Orissa Forest Corporation.**

7. The reclamation of forest land and allotment of these lands in both these projects continued throughout 1978 and 1979. Allotment of reclamation subsidy @ Rs.900/- for Ac.3.00 of reclaimed agriculture land was done in several phases by the Collector, Dhenkanal through Spl.LA&RO, Dhenkanal.

8. In a subsequent meeting chaired by Chief Secretary, Orissa on 22.01.1979, it was decided to clear balance 1580 acres of forest and allot the reclaimed land to the remaining displaced families of Dadaraghati MIP. In the same meeting, it was also decided to go ahead for forest clearance by the Dadaraghati project authorities departmentally as Forest Corporation was unwilling for bush clearance. However, for Ramial Project, Orissa Forest Corporation agreed to the date line fixed by the Chief Secretary to complete the balance forest clearance work by June, 1979 and hand over the reclaimed land to revenue authorities for allotting to project displaced persons.

The following records were made available to the undersigned to indicate that decision to rehabilitate the displaced families of these two projects were taken much before the commencement of Forest Conservation Act, 1980.

These records also indicate that actual shifting has taken place before 25.10.1980.

1. Rehabilitation Policy for Major and Medium Irrigation Projects dt.20.04.1977.

2. Proceeding of the Rehabilitation Advisory Committee headed by the Collector dt. 26.4.1978 for Dadaraghati MIP.

3. Letter of Dy.Secretary to Government I&P Department, vide Letter No.16745 dt.25. 05.1978.

4. Proceeding of the meeting chaired by the Chief Secretary dt.22.1.1979 relating to Irrigation Projects.

5. Notices to families to take possession of land.
6. Sanction of payment order of reclamation subsidy by Collector, Dhenkanal to project displaced persons.
7. Correspondence of use of vehicles for shifting of displaced families to the Rehabilitation sites from Spl.LA&RO, Dhenkanal to Executive Engineer(Irrigation), Angul Division.
8. Register-1 of Tahasils detailing lease cases for leasing out land in Rehabilitation sites to displaced families.
9. Availability of K- form pattas with the Tahasils (Office copy) as well as with the tenants/ displaced persons(which were presented during hearing of the RP Cases).
10. Various correspondence between Spl.LA&RO and Executive Engineer, Angul Irrigation relating to shifting of displaced person from affected villages to rehabilitation sites.

Subsequently, Government of India in Ministry of Environment and Forest in their letter No.2/3-86 dt.31.7.1986 in para-3(iii) have clarified **that cases in which specific orders of dereservation or diversion of forest areas in connection to any project were issued by State Government prior to 25.10.1980 need not be referred to Central Government.**

Finally, Government or Orissa in Revenue & Disaster Management Department, in their letter No.50298 dt.16.11.2006 addressed to Collector, Dhenkanal have clarified that the government has been pleased to decide that in cases where specific orders of dereservation/ diversion of forest areas were issued by the State Government prior to 25.10.1980, reference to Govt. of India is not needed. In the instant case, the letter No.4939 dt.6.11.1978 of DFO, Dhenkanal indicates that rehabilitation decision with respect of Dadaraghati and Ramial Irrigation Project were taken much prior to 25.10.1980. In the same letter, **the Government have requested the Collector to direct the concerned Tahasildar to file revision petition under Orissa Survey & Settlement Act, 1958 with the Member, Board of Revenue**. As per delegation of powers of Board of Revenue, R.D.C(ND), Sambalpur has been vested with the powers to hear Revision Petitions under OSS Act, 1958 for District of Dhenkanal and Angul. Therefore, the undersigned has the jurisdiction to hear the cases.

I have heard the petitioners in my court at Sambalpur and in camp courts held at Dhenkanal, Kamakshyanagar and Parjang. I have heard all the interested opposite parties/their successors in interest in the camp courts.

I have recorded the deposition of Sri Basant Kumar Mishra, then Spl Land Acquisition & Rehabilitation Officer, Dhenkanal on 17.08.2007. He stated after perusing through 20 old lease case records of Kamakshyanagar Tahasil (2078-2098W/1980) that these case records were initiated based on the allotment order issued by him after complete clearance of forest growth by Orissa Forest Corporation Ltd. on 11.08.1980 in capacity of LA & RO of Dadaraghati and Ramial Irrigation

projects. He has also admitted the signature on the allotment order, the sketch map and memos of sanction order for payment of subsidy towards reclamation of agriculture land to the displaced persons of the above projects on 15.06.1979/ 04.06.1979 / 30.01.1979 / 27.12.1979 and 23.04.1980 (which were shown to him) on behalf of the Collector, Dhenkanal. He has also deposed that he had issued the letter No.315 dt.15.6.1979 to the Executive Engineer, Irrigation Division, Angul to supply vehicles for shifting of displaced families of Dadaraghati Irrigation Project.

Similarly,I also took deposition of Raj Kishore Singh of village Kantapal of Kamakshyanagar on 17.08.2007. He was Secretary of Kantapal UP School in the year 1980.He deposed that project displaced persons from Ramial and Dadaraghati MIPs were settled in his village, i.e., Kantapal. He admits that he had signed in the public notice issued before lease sanction by Tahasildar, Kamakshyanagar.He admits that he knew the then Sarpanch. Sri Bhagaban Singh, Kallia Moharana, Gouranga Moharana and Bauri Moharana, who had signed in the public notice for above lease cases(i.e., 2078-2098W/1980). He admits that 21 families of Goboguda village were settled vide these lease cases.

It is clear from the above sequence of events ,available records and depositions that the provisions of Forest Conservation Act, 1980 are not attracted for the case lands where Government decision were taken much before the cut off date, i.e., 25.10.1980 to divert these land for developing resettlement colonies and to allot reclaimed land to displaced families of the two MIPs, namely, Ramial and Dadaraghati.

Regarding other kisams of land (like Gochar, Jawan, etc.), the present ground status needs to be recorded. As these lands were allotted before the Settlement in 1994 as per the Rehabilitation Policy of Government to displaced person, there should be no bar to give final ROR of these land to the allotees as per present status of land.

Second issue is whether the opposite parties/successors in interest have right, title and interest coupled with possession to record the case land in their favour. During hearing on 17.08.2007 at Dhenkanal, one Nakhia Patra, S/o. Sambaria Patra of Kantapal village in RP Case No. 14/2007 submitted three rent receipt which relates to jamabandi number of 37/45 for Ac.3.00 of agriculture land. He had paid rent/cess for the year 1981-82, 1982-83 and 1983-84 vide rent receipt Number 525347, 465921 and 565733 respectively. When I asked as to how he could paid rent in the Tahasil when the land is in Government Khata, he told that till 1984 most of the people have paid rent as per K-form patta. After 1984, when the major settlement record was published, the Tahasil authorities refused to take any rent as the land became recorded in the Government khata. During my hearing in other camp courts, I could see that some of tenants have preserved the old rent receipt, but others have lost them. Thus, the title was given to the tenant, but subsequently extinguished(!) by the final publication of ROR by the settlement authorities(!!!).

The right, title and interest were conferred on the opposite parties by allotment orders and lease cases. As it is a settled principle of law, "ROR neither creates nor extinguishes the right. It has presumptive value". In the instant case, the land was leased out to the OPs as project displaced person as per provisions of the Rehabilitation Policy of Government of Orissa. K-form patta was also issued to them. They also paid rent for the case land for 2-3 years. Due to certain reasons as has been mentioned earlier, the land could not be recorded in their name. But all through, their right continued. It can not be extinguished by mere non recording of the same by the settlement authorities. Regarding possession, during hearing of the cases, I asked this question to each of the opposite parties. Each of them told that he/she is in possession of the case land which was allotted to him/her and have been either cultivating(for agriculture land) or have a house where he/she is staying(for homestead land).

In view of the above decision by Govt. of India and State Government, I am convinced that the cases filed on behalf of the displaced families for the Dadaraghati and Ramial MIPs by Tahasildar, Kamakshyanagar and Tahasildar, Parjang stand on sound footing. I hereby order that these lands be recorded in name of the opposite parties/their legal heirs/successors-in-interest after field verification. The kisam of land be recorded as per the present ground status.

It was seen during hearing that final ROR has been issued earlier in four R.P cases, i.e., 167/07, 252/07, 256/07 and 335/07. Hence, there is no need to take any action on these cases. Similarly, it was seen that two R.P cases have been repeatedly filed, i.e., Case No.101/2007 & 112/2007 and Case No.186/2007 & 187/2007. Therefore, it was decided to delete R.P.Case Nos. 112/2007 & 186/2007 and take up the R.P cases 101/2007 & 187/2007. The details of the cases along with name of opposite parties and name of original allotees are annexed in the following Annexures:

Annexure 'A' : 304 RP cases relating to Agriculture land of Kamakshyanagar Tahasil.

Annexure 'B' : 239 RP Cases relating to Agriculture land of Parjang Tahasil

Annexure 'C' : 234 RP Cases relating to Homestead land of Parjang Tahasil.

The Tahasildars may complete the field enquiry and correct the ROR as per present kisam and issue ROR to the tenants within three months from the date of receipt of this order.

This disposes the RP Cases No.12/2007 to 666/2007 (except Sl. No. 89/07, 90/07, 589/07 to 602/07). This order is pronounced in the open Court on 25th Day of July, 2008 at Camp Court held at Angul.

Sd/-25.07.2008
Revenue Divisional Commissioner (ND),
Sambalpur

CRP No. 361 of 2015

Decided on 27.07.2021

(Order by Addl. Commissioner Settlement and Consolidation, Berhampur, Ganjam)

Smt. Saraswati Parida ..... Petitioner

-Versus-

Subash Chandra Patra ..... Opp. Parties

O R D E R

This consolidation revision petition has been filed u/s 37(1) of OCH & PFL Act, 1972 by the petitioner Saraswati Parida challenging the finally published ROR of mouza Bhabinipur published on 23.4.1992 in respect of Hal Khata No. 1090, Plot No 298 which stands recorded in the name of OP No-3&4 under rayati status on the grounds of erroneous recording.

Sri M.Rath, Sri D. Pradeep Patro and Sri Dillip Kumar Tripathy Advocates, Berhampur have filed power on behalf of the petitioner.

The case was registered and notices were issued to the parties concerned through Regd. Post. The notice sent to P.Syamnati Patro,(OP No.3(a) & LR of OP No-3) returned unserved due to insufficient address as seen from the postal remarks. Subsequently, the aforesaid OP No. 3(a) P.Syamnati Patra, wife of late P.Sarathi Patra along with OP No.4, Madan Sahu, s/o Agadhu Sahu who are the recorded tenants have filed affidavit on dtd 17.1.2019 to the effect that they have no objection for issuance of orders to record the suit land in the name of the petitioner, Saraswati Parida. Further, it is found that, the notice sent to V.Kasturi Amma,(OP No-2) has been returned without service with the remarks by the Postman as 'deceased'. In this context, Sri Manoj Kumar Rath, Advocate, Berhampur files Vakalatnama on behalf of one Sri V.Lokanath, son and LR of deceased OP No.2 V.Kasturi Amma. He files a memo along with an affidavit filed by the said V.Lokanath, the LR and son of late V.Kasturi Amma ,OP No.2 declaring thereby his no objection with regard to issuance of order in favour of the petitioner, Smt. Saraswati Parida, in this CRP case. The same have been taken to record.

Although Para wise report was called for from the Addl. Sub-Collector, Consolidation, Berhampur but the same has not been received so far. However, the learned Advocate for the petitioner has filed relevant documents & Draft Khatian & Form No. 27 & 66 indicating sabik-hal correlation to establish the claim of the petitioner. The learned Sr. Standing Counsel submits that, he has no objection if this old case is disposed of on merit basing upon the authenticated copies of the relevant documents in absence of Para wise report.

Heard the learned Advocate for the petitioner & learned Sr. Standing Counsel. Gone through the case record & documents filed by the petitioner.

In this case, the petitioner has claimed to record an area of Aco.041 3/10 dec. from Hal Plot No.298 under hal Khata No1090 of mouza Bhabinipur under Kanisi Tahasil in her favour on the strength of her purchase of the suit land vide RSD No 10611106916/2011 & her peaceful possession thereof.

During hearing of the case the learned Advocate for the petitioner submits that, the petitioner has purchased the suit land from the OP No.1, Subash Chandra Patro under a Regd.Sale Deed No. 10611106916 dtd 5.7.2011. Similarly, Subash Chandra Patra, the vendor of the petitioner i.e OP No. 1 had purchased the said suit land from the OP No.2 under the Regd.Sale Deed No 2367/2008. Prior to that the OP No. 2 had purchased the said suit land from the OP No. 3(a) who is the daughter-in-law & the LR of the recorded tenant namely, Potnuru Raghunath Patro vide RSD No. 1582/1984.The learned Advocate for the petitioner further submits that, the OP No. 4 is no way related in any manner to the suit scheduled property as reveals from the contents of RSD No. 1582/1984 for which he has submitted an affidavit declaring his no objection for recording of the suit land in favour of the petitioner. The learned Advocate for the petitioner further submits that, the petitioner is in peaceful possession over the suit land & enjoying absolute ownership thereof from the date of her purchase.

On verification of the documents filed by the petitioner, it is found that, before final publication of ROR, P.Syamnati Patro, w/o P.Sarathi Patro (who is also the daughter-in-law & LR of deceased Raghunath Patro, the recorded tenant had sold the land measuring to an extent of Aco.240 dec under Sabik Plot No.516 bearing Khata No. 155 in mouza Bhabinipur to Vendi Kasturi Amma, (OP No-2)vide Regd.Sale Deed No. 1582/1984 . Later on the said OP No-2, V. Kasturi Amma , had sold Aco.240 dec. under the same sabik description correlating to Hal Plot 298, in Khata No. 1090 to Subash Chandra Patro,(OP No-1) vide RSD No. 2367/2008 & finally the said Subash Chandra Patro,(OP No.1) has sold Ac0.041 3/10 decimal out of his purchased land under Hal Plot No. 298 bearing Khata No. 1090 to the petitioner vide RSD No. 10611106916/2011.

On examination of the Draft Khatian, as well as Form No 27 & 66 furnished by the petitioner, it is seen that, Sabik survey No.516 corelates to LR Plot No 534 and ultimately corelates to Hal Plot No. 298 which has been purchased by the petitioner.

From the above discussion, it can safely be concluded that, title is flowing from the recorded tenant to the petitioner commencing from pre-final publication. Accordingly, the petitioner has acquired right, title and interest over the suit land by virtue of her purchase through Regd. Sale Deeds as stated supra.

It transpires that, due to non recording of the claim of the intermediary purchaser during consolidation operation, the present recording appears to be erroneous. As stated earlier, the recorded tenant Sri Madan Sahu, OP No.4, and Smt. Potnuru Syamnati Patra, LR of the other recorded tenant, P. Raghunath

Patra,(OP No.3(a)) & Sri V. Lokanath, the LR of deceased V. Kasturi Amma ,(OP No.2) have submitted affidavits separately regarding their no objection for recording of the suit land in favour of the petitioner.

In the instant case, it is noticed that there had been fragmentation of chaka under the above Chaka Plot No. 298 bearing Chaka No. 95 measuring an area of Ac0.041 3/10 out of Ac0.960 effected vide RSD No. 10611106916/2011. But in view of Govt. Notification No. 2728-Legis-33/11/L dtd 8.3.2013 amending thereby Sec.34 of OCH & PFL Act contemplating non applicability of the restricted provisions of fragmentation to the chaka land as contained in Sub-Sec-(1) & (2) of Sec. 34 in the urban area which is covered under the approved master plan/ development plan of the Town Planning /Development Authority, such fragmentation which is seemingly made for homestead purpose assumes no relevance, since, the land in the village in question i.e. Bhabinipur comes under the Berhampur Development Authority, Berhampur as informed vide BDA L.No. 688 dtd 12.6.2013.

Hence, the revision so filed by the petitioner is allowed.

The Tahasildar, Kanisi is directed to take up mutation of the suit land as per the claim preferred by the petitioner treating the above pre-settlement document as a valid transaction observing the prescribed norms and procedures under the Mutation Manual by conducting due field enquiry and satisfying regarding the peaceful possession of the petitioner over the suit land.

Pronounced in the open Court to-day the 27th day of July' 2021.

Sd/-

Addl. Commissioner, S & C, Berhampur

SRP No. 32 of 2015

Decided on 25.06.2021

(Order by Addl. Commissioner Settlement and Consolidation, Berhampur, Ganjam)

Sandip Mishra ..... Petitioner

-Versus-

Jogendra Sahu (Dead) Represented by LR

Mitu Sahu & others ..... Opp. Parties

O R D E R

This revision petition has been filed u/s 15(b) of OS&S Act, 1958 by the petitioner Sandip Mishra challenging the finally published ROR of mouza Nimakhandi published on 11.03.1976 in respect of Hal Khata No 143, Plot No 682 which stands recorded in the name of OP No. 1(a) to (e) i.e. Jogendra Sahu, Bharat Sahu, Siba

Shankar Sahu, Bijaya Chandra Sahu & Manoranjan Sahu, s/o Gopinath Sahu under rayati status on the grounds of erroneous recording.

Sri D.P.Mishra, Advocate files power on behalf of the petitioner along with documents.

The case was registered and notices were issued to the parties concerned through Regd. Post. The notice sent to Mitu Sahu, LR of Jogendra Sahu,OP No-1, as per the revised petition was returned with the remarks by the Postman as "refused to accept". But subsequently, an affidavit dtd 7.8.2018 has been filed by the said party Sapan Kumar Sahu @ Mitu Sahu stating therein that he has no objection if the suit land is recorded in the name of the petitioner. Similarly, another affidavit has been filed on 7.8.2018 by Ananda Chandra Sahu, survivor of OP No-2, Bhagirathi Sahu who died as a bachelor as per revised petition to the effect that he has no objection in case the land is recorded in favour of the petitioner.

Although para wise report was called for from the S.O., Berhampur but the same has not been received so far. However, the learned Advocate for the petitioner has filed a Letter bearing No. 1593 dtd 27.6.2017 of the S.O., Berhampur obtained under RTI Act along with Form No 37&38 indicating the sabik –hal correlation and the death certificate of Bhagirathi Sahu to establish of his claim. The learned Sr. Standing Counsel submits that he has no objection if this old case is disposed of on merit basing upon the authenticated copies of the relevant documents in absence of para wise report.

Heard the learned Advocate for the petitioner & learned Sr.Standing Counsel & gone through the records.

In this case, the petitioner has claimed to record an area of Ac0.200 dec. from hal Plot No. 682 under Hal Khata No.143 of mouza Nimakhandi in his name on the strength of his purchase vide RSD No 4244/98 & his peaceful possession over the said land.

During hearing of the case, the learned Advocate for the petitioner submits that, just before final publication of ROR, the recorded tenants had sold Ac0.87 5/16 cent to Bhagirathi Sahu s/o late Muralidhar Sahu(OP No-2) under sabik Survey No 472/1 bearing Khata No. 413 of mouza Nimakhandi vide RSD No 638/1975. After death of Bhagirathi Sahu S/o late Muralidhar Sahu who died as a bachelor his brother Ananda Chandra Sahu being his survivor & LR & title holder has sold Ac0.200 dec. to the petitioner under the same sabik description correlating to hal Khata No. 143, Hal Plot No. 682 of mouza Nimakhandi vide RSD No 4244/1998 through the GPA Holder, D. Rajesh Patro vide GPA No. 227/1998.

On perusal of RSD No. 638/1975, it is found that, the recorded tenants along with others had sold an extent of Ac0. 87 5/16 cent out of Sabik Survey No. 472/1 bearing Khata No. 413 in favour of Bhagirathi Sahu s/o Muralidhar Sahu.The said Bhagirathi Sahu died on 15.6.1989 as revealed from the death certificate filed by the petitioner. Since, the said Bhagirathi Sahu died as a bachelor, his brother Ananda Chandra Sahu (OP No-2) being his survivor & LR has transferred an extent of Ac0.200 dec. from Sabik Survey No 472/1 corresponding to Hal Survey No 682/P to the petitioner vide RSD No 4244/1998 through his GPA Holder Daini Rajesh Patro (OP No-3) vide GPA No 227/1998.

It reveals from the information contained in. L. No. 1593 dtd 27.6.2017 of

S.O., Berhampur and Form No. 37&38 indicating the sabik hal correlation furnished by the petit0ner that Sabik Plot No. 472/1 corelates to Hal Plot No. 682 which has been purchased by the petitioner.

From the above, it can be said that title is flowing from the recorded tenants to the petitioner commencing from per-final publication.

The learned Advocate for the petitioner draws my attention to accentuate that a similar case bearing No. 35/2015 containing the same nature and same schedule of land has been disposed of by this Court vide Order dtd 13.8.2018. On examination of the same, it is found that, in the said case, transaction has been made from the same Khata No. and Plot No. in the same mouza by the same party which has been decided in favour of the concerned petitioner.

As stated earlier the OP No. 1(a) & 2, Sapan Kumar Sahu @ Mitu, s/o Jogendra Sahu and Ananda Chandra Sahu, S/o late Muralidhar Sahu have filed affidavit separately regarding their no objection to record the suit land in favour of the petitioner.

It appears that non filing of the claim by the intermediary purchaser during the settlement operation, has led to such erroneous recording. Hence, the revision so filed by the petitioner is allowed.

The Tahasildar, Kukudakhandi is directed to take up mutation of Ac0.200 dec. from Hal Plot No. 682 bearing Khata No. 143 of mouza Nimakhandi in the name of the petitioner treating the above mentioned pre-settlement document as a valid transaction after verifying the peaceful possession of the petitioner over the claimed plot and observing usual formalities under the Mutation Manual.

Pronounced in the open Court to-day the 25"th day of June'2021.

Sd/-

Addl. Commissioner, S & C, Berhampur

CRP No. 130 of 2017

Decided on 26.08.2021

(Order by Addl. Commissioner Settlement and Consolidation, Berhampur, Ganjam)

Hemant Kumar Patnaik ..... Petitioner

-Versus-

Parbati Prasad Padhy & others ..... Opp. Parties

O R D E R

Heard the learned Counsel for the petitioner and the learned Sr. Standing Counsel.

This revision petition has been filed by the petitioner u/s 37(1) of the OCH & PFL Act, 1972claiming an extent of Ac0.032 decimal from Hal Plot No. 100, Khata No. 772(Mutation Khatian No. 1290/679) of mouza Dura under Kanisi Tahasil.

Sri S.N. Sahu, Advocate along with other associate Advocates have filed power on behalf of the petitioner.

Submission of the petitioner in this case is that, he has purchased the suit land measuring to an extent of Ac0.032 decimal pertaining to the Hal Plot No. 100, Hal Khatian No. 1290/679 corresponding to Sabik Survey No. 92, Sabik Khata No. 428 of mouza Dura from OP No.1 vide RSD No. 565/1999. The OP No.1 had purchased the said suit land in Sabik Survey No. 92, Sabik Khata No. 428 from the father of OP No.2 vide RSD No. 1626/1995, who being the recorded tenant executed a Power of Attorney vide Document No. 15/1985 in favour of his wife who is also the mother of OP No.2 and the said Attorney (mother of OP No.2) executed the document on behalf of the recorded tenant. The petitioner, claiming the absolute ownership over the scheduled property having peaceful possession thereon has prayed to record the suit land in his favour.

Further, as averred by the petitioner the scheduled land comprising of Plot No. 100 finds place in the Mutated Khatian No. 1290/679 which stands recorded in favour of the OP No.2. The learned Advocate for the petitioner has filed a written note of submission stating therein that while filing this revision case the petitioner had mentioned ROR No. 1290/679, but actually the correct Khatian/ROR No. pertaining to Plot No. 100 was ROR No. 772. To corroborate such claim, the petitioner has filed the certified copy of ROR No. 772. Further contention made by the petitioner is that, the OP No.2 has made separate ROR in his name covering his other properties including the property already sold by his late father to the petitioner as well as to other persons that remained in the said Plot No. 100 being a co-executant of the document No. 1626/1995. So, the petitioner has alleged that the alienated

property involving the Plot No. 100 has wrongly been recorded in the name of OP No. 2 in the Mutated ROR No. 1290/679 by the Tahasildar, Kanisi in a mechanical manner.

The Parawise report as called for has been received from the Addl. Sub-Collector, Berhampur. The learned Advocate for the petitioner has also filed Amin's enquiry report i.e Form No. 27 along with Form No. 34 to substantiate his claim.

Perusal of the documents as relied upon by the petitioner reveals that, transaction of the property has been made citing the Khatian No. 428, Plot No. 92 in the sabik description corresponding to the then Hal Khata No. 1062, Plot No. 110. The relevant Amin Report and Form No. 34 filed by the petitioner indicates that, Sabik ROR No. 428 and Plot No. 92 were in the name of Bhajagobinda Patra and the said sabik Plot No. 92 corelates to the LR Plot No. 110 being finally published as the plot No. 100 of mouza Dura. The Para wise report received from the Addl. Sub-C0llector, Consolidation, Berhampur also corroborate this fact indicating correlation of Sabik Plot No. 92 to the LR Plot No. 110 and ultimately to the Hal Plot No. 100.

On perusal of the certified copy of ROR in respect of Khatian No. 772, it is found that Plot No. 100 existed in the said Khata which stands in the name of Bhajagobinda Patra, the father of OP No.2. It appears that at subsequent stage, the said plot No. 100 has been included under the mutated ROR No. 1290/679 from this Khata No. 772 in favour of OPNo.2 which has been mutated by the Tahasildar, Kanisi.

From the above analysis, it can be said that, title has rightly been passed to the present petitioner from the recorded tenant commencing from pre-final publication.

As the sabik hal relation of the schedule land co-exists and the OP No-2 was an executant of the Deed No-1626/1995, the revision is allowed subject to the condition that the petitioner should have in possession over the suit plot No. 100 as per the dimension mentioned in the deed of the year 1999 and involvement of the Hal Plot No. 100 in the mutated Khata No. 1290/679 by the Tahasildar, Kanisi purported to have been made in a mechanical manner as contended by the petitioner without any other genuine reason persisted there. Accordingly, the Tahasildar, Kanisi should verify the possession of the petitioner in confirmity with the field position and mutate the land claimed by the petitioner to the extent of Ac0.032 decimal giving the parties concerned reasonable opportunity of being heard and by observing necessary formalities as per law.

Pronounced in the open Court to-day the 26th day of August' 2021.

Sd/-

Addl. Commissioner, S & C, Berhampur

SRP No. 1111 of 2015

Decided on 22.10.2021

(Order by Dr. Gavali Parag Harshad, I.A.S,
Collector & District Magistrate, Kalahandi)

Bikash Ranjan Panigrahi …….. Petitioner
-Versus-
Laxmi Narayan Behera & others . ..... Opposite Parties

Advocate for the petitioner . . . . . Loknath Brahma & Raghunath Hotta

Advocate for the Ops . . . . . None

Prayer

This revision petition is filed by the petitioner U/S 15(b) of Odisha Survey and Settlement Act, 1958 to correct the RoR and to record an area of Ac.1.62 dec. out of Hal Plot No. 447 & 520 vide Hal Khata No. 186 of Talpadar Mouza of Junagarh Tahasil in his favour.

Contention

The case land was originally recorded in the name of Laxmi Narayan Behera & Biranchi Narayan Behera of village- Talpadar vide Khata No. 1/2. The R.T sold the case land vide Khata No. 1/2 , Plot No. 281, Area- Ac.0.74 dec., Plot No. 369, Ac.0.35 dec., Plot No. 370, Ac.0.17 dec, Plot No. 339, Ac.0.36 dec. (Total Ac.1.62 dec.) to Bikash Ranjan Panigrahi s/o Gyana Banta Panigrahi vide RSD No. 10901001359 dated. 27.07. 2010. In the current settlement operation, the Settlement Authority without considering the RSD No. 10901001359 dated. 27.07.2010, wrongly recorded the following land in the name of Biranchi Narayan Behera s/o Judhistra Behera. Hence the petitioner filed this petition to record the case land in his name.

Land Schedule

Sl No	Mouza	Sabik Khata No	Sabik Plot No.	Kissam	Area	Hal Khata No	Hal Plot No	Area
1	Talpadar	1/2	281	Berna Khari	0.74	186	447	
			369	Berna Khari	0.35		520	
			370	Kh. Adi	0.17			
			339	Berna Ma	0.36			

Documents enclosed:-

1. Copy of Sabik RoR vide Khata No. 1/2 of Mouza- Talpadar
2. Copy of RSD No. 10901001359 dt. 27..07.2010.

3. Copy of Hal RoR vide Khata No. 186 of Mouza- Talpadar
4. Xerox copy of yadast No. 137 of village- Talpadar.
5. Status report submitted by the Tahasildar, Junagarh
6. PWC submitted by the Addl. Sub-Collector, Settlement.

Tahasildar, Junagarh submitted report attached to the case record.

Findings

1. The sabak Khata No. 1/2 shows that the sabik R.T of suit land is Laxmi Narayan Behera & Biranchi Narayan Behera.
2. The RSD No. 10901001359 dated 27.07.2010 shows that the sabak RT sold the case land vide sabik Khata No. 1/2 , Plot No. 281, Ac.0.74 dec., Plot No. 369, Ac.0.35, Plot No. 370, Ac.0.17, plot No. 339, Ac.0.36 dec to the petitioner Bikash Ranjan Panigrahi.
3. The RoR No. 186 shows that the hal R.T of the suit land is Biranchi Narayan Behera s/o Judhistir Behera.
4. Tahasildar, Junagarh submitted status report, where in it is reported that the petitioner is in possession over the case land vide hal Khata No. 186, Plot No. 447, Ac.0.38, Plot No. 448, Ac.1.20 , Plot No. 520, Ac.0.04 dec.
5. Addl. Sub-Collector, Settlement submitted PWC where in it is reported that the sabik Plot No. 281, 369, 370 & 339 of Mouza- Talpadar was recorded in the name of Laxmi Narayan Behera & Biranchi Narayan Behera. The sabak R.T filed rent case No. 5168/2001 to partition the total land of sabak Khata. As per the order of the settlement officer the total area of sabak Khata have been partitioned and accordingly the hal Khata No. 186 recorded in the name of Biranchi Narayan Behera. The petitioner has not filed rent case to record the case land in his name. Therefore the final RoR was published in the name of Biranchi Narayan Behera vide hal Khata No. 186. The sabak Plot No. 281 & 339 corresponds to hal Plot No. 520 & the sabak Plot No. 369 & 370 corresponds to hal Plot No. 447.
6. Yadast No. 137 of Mouza- Talpadar shows that the sabak Plot No. 281 & 339 corresponds to hal Plot No. 520 & the sabak Plot No. 369 & 370 corresponds to hal Plot No. 447.

ORDER

S/R back after due service. Both parties present on call. The OP Biranchi Narayan Behera stated that he has no objection if the case land would be recorded in the name of the petitioner.

Examined the documents on record. Hal-sabak comparison as well as the present status report of Tahasildar, Junagarh. Also verified the RSD bearing No.

10901001359, dated. 27.07.2010, Ac.0.74 out of sabak plot No. 281, Ac.0.35 out of sabak Plot No. 369, Ac.0.17 out of sabak Plot No. 370 & Ac.0.36 dec. out of sabak Plot No. 339 vide Khata No. 1/2 of Mouza- Talpadar was registered by Laxmi Narayan Behera & Biranchi Narayan Behera of village- Talpadar, PS- Junagarh in favour of the petitioner Bikash Ranjan Panigrahi of village- Talpadar, PS- Junagarh through a registered document of sale. The sabak Plot No. 281 & 339 corresponds to hal Plot No. 520 & the sabak Plot No. 369 & 370 corresponds to hal Plot No. 447 of Mouza- Talpadar. The report of Tahasildar, Junagarh corroborates to the physical possession report of petitioner over the case land. The Settlement Authority would have considered the sale deed and recorded the case land in the name of the petitioner but they do not considered the same.

The petitioner purchase the case land through valid document supported with possession. Thus, the revision is allowed in favour of petitioner with delay condoned, the Tahasildar, Junagarh is directed to treat the above Registered Deed as pre-settlement document and undertake mutation in favour of the petitioner observing all formalities as per mutation Manual and comparing Hal- Sabak RoR and maps.

Pronounced in the open court today the 22nd day of October, 2021

Sd/-
Collector, Kalahandi

SRP No. 114 of 2018

Decided on 23.09.2019

(Order by Dr. Gavali Parag Harshad, I.A.S,
Collector & District Magistrate, Kalahandi)

Chaitanya Majhi ..... Petitioner
-Versus-
Settlement Officer, Sambalpur & another ..... Opposite Parties

Advocate for the petitioner . . . . . None

Advocate for the Ops . . . . . None

Prayer

This revision petition is filed by the petitioner U/s 15 of Odisha Survey and Settlement Act, 1958 to correct the ROR and to record an area of Ac.0.18 out of Hal Plot No. 1647 and Ac.0.32 out of Hal Plot No. 1644 (total Ac.0.50) pertaining to Hal Khata No. 406 of Kumjore Mouza of Jaipatna Tahasil in his favour.

Contention

The case land was recorded under Government khata as per 1955-56 settlement. The said land was settled in the name of the petitioner vide Lease case

No. 12/2001 and separate khata No. 124/75 was recorded in the name of the petitioners. Since then the petitioners are in peaceful possession over the case land having right, title and interest. In the current settlement operation during 2013, the settlement authority without considering the RoR/ Lease patta and without verifying the filed as well as the records, wrongly recorded the case land in Govt. Khata. Hence the petitioner filed this petition to record the case land in his name.

Land Schedule

Sl No	Mouza	Sabik Khata No	Sabik Plot No.	Kissam	Area	Hal Khata No	Hal Plot No	Area
1.	Kumjore	124/75	813/1153	Att. Ma	Ac.0.50	406	1647	Ac.0.18
							1644	Ac. 0.32
								Ac.0.50

Documents enclosed:-

1. Copy of RoR vide khata No. 124/75
2. Yadast copy
3. Para wise report of Addl. Sub-Collector, Bhawanipatna including hal-sabik comparison.

Tahasildar, Jaipatna submitted detailed report on current possession of the case land.

Findings

The ROR No. 124/75 shows that the case land was settled in the name of the petitioner Chaitanya Majhi s/o Dambarudhar Majhi @ Hetu Majhi and Purnami Dei @ Majhi w/o Chaitanya Majhi vide Lease case No. 12/2001.

1. The ROR No. 406 published on 2013 shows that the Hal RT of the suit land is Govt. Of odisha.

ORDER

The case is posted today for hearing. The appellant is present on call.

Examined the documents on record, hal-sabik comparison as well as the present status report of Tahasildar, Jaipatna. Also verified the Sabik RoR & hal RoR. Further examine the report submitted by the Addl. Sub-Collector, Bhawanipatna.

Perused the report of Tahasildar, Jaipatna. The report corroborates to the physical possession report of petitioner over the case land.

Thus, the revision is allowed in favour of the petitioner. Accordingly, the Tahasildar, Jaipatna is directed undertake mutation of Ac.0.18 out of Hal Plot No.

1647and Ac.0.32 out of Hal Plot No. 1644 (total Ac.0.50) pertaining to Hal Khata No. 406 of Kumjore Mouza in favour of Chaitanya Majhi s/o Dambarudhar Majhi @ Hetu Majhi and Purnami Dei @ Majhi w/o Chaitanya Majhi of village/po- Kumjore, PS-Jaipatna, Dist.- Kalahandi observing all formalities as per Mutation Manual.

Pronounced in the open court today the 23rd day of September, 2019.

Sd/-

Collector, Kalahandi

SRP No. 86 of 2015

Decided on 25.11.2019

(Order by Dr. Gavali Parag Harshad, I.A.S,
Collector & District Magistrate, Kalahandi)

Bhairab Naik ..... Petitioner
-Versus-
Charge Officer & others ..... Opposite Parties

Advocate for the petitioner. . . . . None

Advocate for the Ops. . . . . None

Prayer

This revision petition is filed by the petitioner U/s 15(b) of Odisha Survey and Settlement Act, 1958 to correct the ROR and to record an area of Ac.1.48 dec. out of corresponding hal Khata & Plots of sabak Khata No. 14, Plot No. 162, Ac.0.50 dec., Plot No. 161, Ac.0.29 dec., Plot No. 167, Ac.0.14 dec., Plot No. 168, Ac. 0.23 dec., Plot No. 169, Ac.0.22 dec., Plot No. 193, Ac.0.10 dec. (Total Ac.1.48 dec.) of Dharmagarh Mouza of Dharmagarh Tahasil in his favour.

Contention

The contention of the petitioner is that the sabak Khata No. 14 of Mouza-Dharamgarh was recorded in the name of Arjun Naik. The legal heirs of Arjun Naik filed T.S No. 75/2001 before the Hon'ble Civil Judge, Sr. Division, Dharamgarh for allotment of their respective shares. Accordingly the case land (mentioned in schedule "H" in T.S. No. 75/2001) as indicated below is fallen in to the share of the petitioner and the petitioner is in peaceful possession over the case land. In the current settlement operation during 2013, the settlement authority without verifying the filed as well as the records and without considering the order of Hon'ble Civil Judge, Sr. Division, Dharamgarh in T.S No. 75/2001 wrongly recorded the case land in the name of Arjun Mali(sabak RT) vide Khata No. 58. Hence the petitioner filed this petition to record the case land in his name as per the decree in T.S. No. 75/2001.

Land Schedule

Sl No	Mouza	Sabik Khata No	Sabik Plot No.	Kissam	Area	Hal Khata No	Hal Plot No	Area
1	Dharmagarh	14	162	Ber Ma	0.50			
			161	Att. Un	0.29			
			167	Att. Un	0.14			
			168	Bah. Pa	0.23			
			169	Bah. Pa	0.22			
			193	Att Ma	0.10			
					1.48			

Documents enclosed:-

1. Copy of Sabik RoR No. 14 of Mouza- Dharmagarh
2. Copy of Hal RoR No. 58 of Mouza- Gataguda.
3. Copy of order in T.S. No. 75/2001 passed by Civil Judge (Sr. Division), Dharamgarh.
4. PWC submitted by the Addl. Sub-Collector, Settlement, Kalahandi.
5. Report of Tahasildar, Dharmagarh

Tahasildar, Dharamgarh submitted detailed report on current possession of the case land.

The petitioner present on call. OP Paramananda Naik & Sairendri Naik @ Mali also present. The Ops Paramananda Naik & Sairendri Naik @ Mali stated that they have no objection if the case land would be recorded in the name of the petitioner. The petitioner stated that the matter has already been adjudicated by the Civil Court and he prays to pass order as per decree in civil court. The Tahasildar has reported that the petitioner is in possession over the case land vide hal Plot No. 1920, Ac.0.79 dec., plot No. 1920, Ac.0.59 dec. and plot No. 1902, Ac.0.10 dec.

The report of the Addl. Sub-Collector, Settlement, Bhawanipatna reveals that the sabak Plot No. 169 corresponds to hal plot No. 1913, sabak Plots No. 169 & 168 corresponds to hal Plot No. 1914, sabak Plot No. 167 corresponds to hal Plot No. 1916, sabak Plots No. 169, 168, 167, 166, 165, 164, 163, 162, 161, 158 & 159 corresponds to hal Plot No. 1920, sabak Plot No. 161 corresponds to hal Plot No. 1955 & sabak plot No. 178, 179 & 193 corresponds to hal plot No. 1902. As per the order of ASO the hal Plot No. 1913, 1914, 1916, 1920, 1955 & 1902 have been ordered to record in the name of Arjun Mali. One Kadamba Naik filed objection petition vide rent case No. 8443/2003 during attestation Draft Publication and objection hearing camp to record the case land separately basing on the order in T.S No. 75/2001 of Civil Judge, Senior Division, Dharmagarh. As the party remain absent and also not paid the fees, during the inquiry by the Survey Amin, therefore the case land was ordered to record in the name of Sabak R.T.

Heard both the parties. As the Hon'ble Civil Court has already allotted the share of the parties vide T.S. No. 75/2001. The Addl. Sub-Collector, Settlement submitted the hal sabak comparison report where in the sabak Plot No. 162, 161, 167, 168, 169 & 193 involved in TS No. 75/2001 corresponds to hal plot No. 1913, 1914, 1916, 1920, 1955 & 1902. Therefore the revision is allowed. Tahasildar, Dharamgarh is directed to undertake Mutation and to correct the Map and RoR in the name of the petitioner after observing the orders of the Civil Court in T.S No. 75/2001 and taking into the physical possession & observing hal-sabak comparison report of Addl. Sub-Collector, Settlement.

Pronounced in the open court today the 25th day of November, 2021.

Sd/-
Collector, Kalahandi

ON ADVERSE POSSESSION

Jagannath Rath
Standing Counsel

1. Simple understanding and history of adverse possession:-

All India Report 2019 Supreme Court page- 3827 Para-2.

- "If a chieftain or a man leaves his house, garden and field and someone else takes possession of his house, garden and field and uses it for three years; if the first owner returns and claims his house, garden and field, it shall not be given to him, but he has taken possession of it and used it shall continue to use it".
- "The possessor who maintains and improves the land has a more valid claim to the land than the owner who never visits or cares for the land and uses it, is of no utility. If a former owner neglects and allows the gradual dissociation between himself and what he is claiming and he knows that someone else is caring by doing acts, the attachment which one develops by caring cannot be easily parted with".

Para- 57- "The adverse possession requires all the three classic requirements to co-exist at the same time, namely nec-vi i.e. adequate in continuity, nec-clam i.e. adequate in publicity and nec- precario i.e. adverse to a competitor, in denial of title and his knowledge.

Para-22- "Adverse possession confers negative and consequential right effected only as somebody else's positive right to access the court is barred by operation of law. Right of the paper owner is extinguished and that competing possessor as he cared for the land, developed it as against the owner of the property who had ignored the property.

2. Claim of adverse possessions-

(2004) 10 SCC 779 (Karnatak Board of Wakf –vrs- Govt. of India) referred in 2018 (II) OLR 6 Para-10 (State of Orissa –vrs- Haladhar Barik)

Para-10- "A person who claims adverse possession would show: (a) on what date he came into possession, (b) what was the nature of his possession, (c) whether the factan of possession was known to the other party, (d) how long his possession has continued and (e) his possession was open and undisturbed.

BLACK LAW DICTIONARY (6th Edition) Says adverse means opposed contrary, in registance or a claim/application or proceeding.

- Adverse possession means a method of title to real property by possession for statutory period. Otherwise it is explain that statute of limitation on the bringing of action for the recovery of lands, title can be acquired to real property by adverse possession. In order to establish title in this manner, there must be prove of non proper missive use which is actual, open, notorious, exclusive and adverse for the statutory period.
- The statutory period have been prescribed under The Limitation Act, 1963 vide Section-27 and Article-64 to 66 and Article – 111 & 112.
- Section – 27 says about extinguishment of right of property.
- Article – 64 to 66 says about possession of immovable property of private person/individuals.
- Article- 111 & 112 says about properties of Govt. which includes State and Central.

WEBSTERS NEW WORLD DICTIONARY

- Adverse means turned Opposite in position
- Possession means possessing or being possessed ownership hold.
- Anything possessed property, wealth, showing or, describing possession.

JUDICIAL DOCTIONARY BY AIYAR'S (9th EDITION)

- Adverse means acting in a contrary direction, opposing claim.
- Claim by two persons of the ownership of certain property.
- Where the property is in the hand of person other than those who claim the same.
- **Adverse possession means**:- possession of property by a person on his behalf or, on behalf of some other person, the true owner having a right to immediate possession. But, if the true owner does not enforce his right within the period prescribed by the law relating to limitation, the possession of the former becomes adverse to the true owner and ripens into ownership.
- To claim successfully the adverse possession vesting title in the possession, the possession must be actual, visible, exclusive, hostile and continued during the statutory period of limitation as explained under The Limitation Act, 1963.

Section 27 and Articles 64 to 66 and Article 111 & 112

- The law of adverse possession in the recent past has been taken care along with Limitation Act, 1963, Section 27 of Article 64 and 66 and Article 111 & 112, by their lordship in Vol. 1, 2014 Supreme Court cases at page 669. In the matter of Gurudwar Sahi –vrs- Grama Panchayat village, Sirthala and another and All India Report 2019 Supreme Court at page 3827, AIR online 2019 Supreme Court (SC) 804.
- While relying on few dozen of Hon'ble Supreme Court decisions along with the decisions of Privy Council, and Queens Bench, their lordship bench given a new dimentation to the law of Adverse Possession.
- Their lordship in 2014 Vol. 1 SCC 669 (Gurudwar Sahib –vrs- Gram Panchayat Sirthala) held that "declaration of ownership of land on the basis of adverse possession cannot be sought by plaintiff- But claim of ownership by adverse possession can be made by way of defense when arrayed/ added as defendant in proceedings against him.
- This law on adverse possession was over ruled by their lordship in AIR 2019 SC 3827, at paragraphs 48, 49 & 50 which are quoted herein below:-

> *Para- 48 - The statute does not define adverse possession, it is a common law concept, the period of which has been prescribed statutorily under the law of limitation Article 65 as 12 years. Law of limitation does not define the concept of adverse possession nor any where contains a provision that the plaintiff cannot sue based on adverse possession. It only deals with limitation to sue and extinguishment of rights. There may be a case where a person who has perfected his title by virtue of adverse possession is sought to be ousted or has been dispossessed by a forceful entry by the owner or by some other person, his right to obtain possession can be resisted only when the person who is seeking to protect his possession, is able to show that he has also perfected his title by adverse possession for requisite period against such a plaintiff.*
>
> *Para- 49- Under Article 64 also suit can be filed based on the possessory title. Law never intends a person who has perfected title to be deprived of filing suit under Article 65 to recover possession and to render him remediless. In case of infringement of any other right attracting any other Article such as in case the land is sold away by the owner after the extinguishment of his title, the suit can be filed by a person who has perfected his title by adverse possession to question alienation and attempt of dispossession.*
>
> *Para-50- Law of adverse possession does not qualify only a defendant for the acquisition of title by way of adverse possession, it*

may be perfected by a person who is filing a suit. It only restricts a right of the owner to recover possession before the period of limitation fixed for the extinction of his rights expires. Once right is extinguished another person acquires prescriptive right which cannot be defeated by re-entry by the owner or sub-sequent acknowledgment of his rights. In such a case suit can be filed by a person whose right is sought to be defeated.

- In paragraphs 61 while over ruling the decisions reported in AIR 2014 Vol. 1 SCC 669 and AIR 2017 SC 4472 in the matter of Dharampala (dead) through LRS Punjab wakaf Board, held that these two decisions cannot be said to be laying down the law correctly, thus they are hereby over ruled. Further their lordship held that the plea of acquisition of title by adverse possession can be taken by the plaintiff under Article 65 of The Limitation Act, 1963, and there is no bar under The Limitation Act, 1963 to sue on the aforesaid basis in case of infringement of any right of a plaintiff.
- At present this is all about what I have understood on the law of "Adverse Possession"

RP No. 1808 of 2018

Decided on 18.02.2021

(Order by Addl. Commissioner Consolidation and Settlement, Sambalpur)

Ananda Singhania and others ..... Petitioners

Vrs.

Abhi Nial and others ----- Opposite Parties

ORDER

Against the refusal by the Tahasildar, Kantabanji to mutate the case land on the ground that the registration of the case land was done as per sabik ROR revision U/s 15 (b) of the O.S.&S. Act, 1958 has been filed by the petitioners on 09.07.2018. After preliminary hearing on submission of the prayer, the case was kept for further hearing on admission on 21.08.2018.

Notice was issued to theopp.parties. Opp. parties No.3 to 9 have appeared through a common counsel and opp. parties No.1 & 2 by another counsel.

The Tahasildar, Kantabanjhi was directed to submit PWR and fact of possession report and case was posted to 09.11.2018 for filling objection by the opp. parties. The opp. parties have filed objection, challenging the maintainability of the revision petition on ground of delay.

During the pendency of proceeding the petitioners filed 3 Misc. Cases namely for substitution, condonation of delay and amendment petition. The opp.parties were served with copies of the petition and the objections to the same has been filed. All the 3 petitions were allowed on 03.09.2020 on contest. Thereafter a consolidated settlement revision petition was filed replacing Anand Singhania in place of Santosh Agrawal earlier petitioner No.1 who died on 29.04.2020.

Due to ongoing Lawyer's strike, the court work remained suspended from 06.09.2018 to 17.03.2019. The case could not proceed as such till 11.12.2019 and subsequently it was taken up for hearing on 06.01.2020. Advocate for both the parties appeared. The advocate for opp. parties filed written objection and presented his argument in the presence of the advocate for petitioners and case was again posted to 20.01.2020.

The learned Counsel for opp. parties No.1 & 2 filed a petition challenging the maintainability of the revision mainly on the ground of delay it being more than 70 years from the date of execution of sale deed i.e. 1950.During preliminary hearing, itself the limitation petition u/s 5 of the Limitation Act was allowed on merits as it involves the substantive rights of the petitioners over the case land. The substitution and amendment petition filed by the petitioners were also allowed on justifiable grounds. However the maintainability petition filed by the opp. parties was kept to be heard at the time of final hearing.

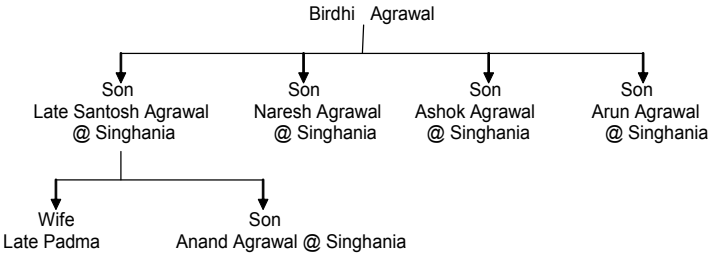
The gist of the petitioners claim is that the petitioners father Ramchandra Birdhi and others had purchased the case land jointly from one Dhanuram Nial, Gadadhar Nial and Nara Nial vide R.S.D. No.442 dt.25.08.1950 for a consideration of Rs.470/- and they are in peaceful possession of the same since then. However as revealed from the prayer, the same could not be mutated due to pre-settlement sale and therefore they took shelter of this revision court for obtaining a direction to the Tahasildar for correction of R.O.R.

All the legal heirs of sabik R.Ts. through their counsel have opposed to the revision on the ground of delay of 43 years and they also claim to have possession over the case land.

Though a report was already called for and submitted by the Tahasildar, Kantabanjhi regarding the present status of land and the genuineness of the sale deed. But, as per the objection raised by opp.parties No.1 & 2 on 15.12.2020 regarding right of ownership of petitioners, a fresh report along with PWR was called for from Tahasildar, Kantabanjhi.

The Tahasildar vide his letter No.95 dated 08.01.2021 hassubmitted the PWR confirmingthe genuineness ofthe sale deed No.442 of 1950 executed in favour of one Ramchandra Sharma and Birdhi Agrawal. He has also confirmed that the present petitioners are legal heirs of late Birdhi Agarwal and they are still in possession of Ac.0.35 dec. out of total Ac.0.38 dec.

The Revenue Inspector, Kantabanjhi in his report has given a genealogy of Birdhi Agrawal after making an enquiry and the same is as under :



While arguing for the opp. parties the learned counsel states that the settlement authority did not take notice of the possession over the case land which was published in the year 1974. The learned counsel for opp. parties has raised doubt over the genuineness of the R.S.D. No.442 dt.25.08.1950.

The learned counsel for opp. parties have vehemently denied the claim of adverse possession by the petitioners over the case land as settlement authority recorded the case land in the name of the legal heirs and successor of the sabik R.Ts.

The learned counsel for opp. parties have further stated that the petitioners did not approach the revision authority within reasonable time and thus they should suffer for their own negligence and laches and thus on the aforesaid points, the learned counsel for opp. parties have argued that the present revision is not maintainable.

The learned counsel for the petitioners argued that the revision prayer may be allowed as it is amply supported by the field enquiry report of the Tahasildar and Revenue Inspector. The Tahsildar, in his report has not only confirmed the genuineness of the sale deed but also clearly stated that the petitioners are in possession of the case land since 1950 uninterruptedly and no claim of ownership having ever been raised or challenged by the opp. parties in any forum till date. The learned counsel for the petitioners has further argued that the opp. parties have never challenged the petitioner's possession over the case land as they being in possession since 1950 and hence by law of adverse possession have created right, title and interest over the case land.

While countering the contentions of the Sr. Counsel for petitioners, the opp. parties counsel has argued that opp. parties are in possession and the petitioners have never challenged the M.S. R.O.R., recorded in the name of legal heirs of the sabik R.Ts. and the same can not be challenged after a gap of 43 years.

The issues emanating from the factual aspects, report of the Tahasildar and Revenue Inspector and contentions of both parties are as follows

Whether R.S.D. is genuine or not?

Whether the present revision is barred by the Act of Limitation?

Whether Tahasildar / Revenue Inspector report is correct?

Whether the legal heirs are barred from claiming right over the case land on the same ground?

Whether the petitioners are in possession of the case land since the date of purchase?

Having dealt with the facts and the gist of objections and counter by the petitioners, the points of law involved in the revision as dealt by the learned counsel of both parties are discussed below.

While opposing the revision prayer, the learned counsel for opp. parties cites decision of the Hon'ble High Court, passed in **WA No.24/2017**, published in **2017(II) ILR-CUT-1240**, wherein the Hon'ble Court held that "**In this case proceeding U/S 15(b) of the Act initiated ……. Having not approached the Revisional Authority within reasonable time are to suffer for their own negligence and laches**."

The learned counsel for opp. parties has further argued that Section 1 , Rule 10 of I.E. Act, the burden lies with the petitioners to prove that they are in possession of the case land in question. He also stated that the Tahasildar is not competent to declare right, title and interest over the case land, if it is disputed.

In his counter to the submission of opp. parties counsel on point of law, the learned Sr. Counsel for petitioners has relied upon the citation of Apex Court on **1998(7) SCC** has held "**Rule of limitation are not meant to destroy the substantive rights of parties**". Further in **1987(2) 107 SCC , Collector(LA) Vrs Katiji**, the Hon'ble Apex Court held that "**sufficient cause**" in Section 5 of Limitation Act is flexible enough to enable courts to apply the law in a meaningful manner which meets the end of justice. In another decision, the Hon'ble **Apex Court in 2013(12) SCC 649 Esha Bhatacharjee Vrs. Raghunathpur Nafar Academy** has reiterated the principles applicable to an application for condonation of delay. The Hon'ble Court has stressed that there should be a liberal (so as to encapsulate the conception of reasonableness) pragmatic justice-oriented approach. The expression "**sufficient cause" as it appears in the Act must be interpreted and understood in the proper spiritas these terms are elastic enough to be applied liberally in the interest of justice**.

Similarly, the Hon'ble Supreme Court in two landmark judgment i.e. (I) **Peruman Bhagvathy Devswan Vrs. Bhargavi Amma Thr: Lrs on 11th July 2008**

and (II) Katari Satyanarayan and others Vrs. Koppisathi Subba Rao and others on8th April 2009 have laid down the principles to be applied while considering application for condonation of delay. Taking clue from the above decisions of the Apex Court, I quote the word (I) "**sufficient cause" in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, (II) "the decisive factors in condonation of delay is not the "length of delay" but "sufficiency" of a satisfactory explanation" and (III) "the extent a degree of leniency to be shown by court depends on the nature of application and facts and circumstanced of the case**. In the instant revision case the cause of delay is due to death of Birdhimal who was in custody of the documents and in remained as such untraceable for a long time. The assertion made by the learned Sr. Counsel that the delay is not on account of dilatory tactics deliberate inaction or negligence on the part of the petitioners seems to be convincing and sufficient. Therefore this court takes a lenient view by seeing the nature of facts and circumstances as explained by the petitioners counsel and thus long delay is condoned.

Having heard the learned Counsel, it is my considered view that there was justifiable reasons on the part of the petitioners in not approaching this court earlier. More so, the petitioners does not seem to have suppressed any material fact which goes to show their bonafide and genuineness. Further even if there is some delay in approaching this court for correction of R.O.R., settlement having taken place in 1974 but still then due to effluxof time no valuable right for that matter any right has been occurred in favour of the opp. parties as no documents are forth coming from the side of the opp. parties. Hence I was inclined to allow the limitation petition filed by the petitioners through my order dt.03.09.2020, which even otherwise has not been assailed in the higher forum by the opp. parties if they were ever aggrieved.

The learned counsel for opp. parties further argues that the report of the Tahasildar / Revenue Inspector filed in this revision is not based on spot enquiry. The opp. parties counsel also question the claim of possession over the case land by the petitioners. The Tahasildar / Revenue Inspector do not give the time and date of field visit. The counsel for the opp. parties have argued that the report was submitted by the Revenue Inspector and Tahasildar without giving them a chance of hearing and the same can not be acted upon, it being violation of principle of natural justice. I do not agree with the argument of the learned counsel. I think the Tahasildar, Kantabanji is not required to give an opportunity of hearing before submitting his report to this court. In his reply to the objection of the opp. parties counsel, the petitioners counsel states that the report submitted by the Tahasildar is an independent report, basing on field visit and verification of documents available at their end by collecting information and evidence from the local people and neighborhood. He further argues that the submission of report of Tahasildar to the court is an internal document so as to facilitate the just and fair conclusion. Therefore, Tahasildar was well within his competence and jurisdiction while submitting field

enquiry report to this court regarding status of the case land, without noticing opp. parties. In this regard, the learned counsel for petitioners cites the decision of Hon'ble High Court, published in **2007(1) OLR-595**. In the said decision, her lordship observes that the "**Commissioner, while allowing the revision prayer has called for a field enquiry and status report from Tahasildar and considered all materials on record and passed the order in accordance with law**". Such a view of the Hon'ble Court confirms that the Commissioner has rightly taken in to account the field report of the Tahasildar so as to take a judicious view of the matter.

The learned counsel for opp. parties has stated that the sale deed bearing No.442 dt.25.08.1950 is a fraudulent document which was constructed in order to grab the valuable property of the opp. parties. This has been countered by the learned Sr. Counsel for the petitioners who argues that the sale deed is a genuine document and it has not been challenged even after 70 years and thus it is valued. **As per provision of law, R.S.D. can be challenged within 3 years of its execution**. He further argues that rightly or wrongly, R.O.R. issued in their favour does not mean that the property belongs to them as the title has already passed by virtue of the said R.S.D.

The typographical error of name on the face of the sale deed, corrected and endorse by the registering authority on back side has been dubedas illegal by the Counsel for the opp. parties. But such view has been countered by the learned Sr. Counsel for the petitioners saying the correction effected on the back side of the document and certified by the Sub-Registrar in change of registration is sufficient to probe that it is genuine and therefore such erroneous argument is devoid of merit.

The learned counsel for opp. parties states that the sabik-hal conversion submitted by the petitioners is not correct. But the Sr. Counsel for petitioners counters it by saying that the same are not good ground for interference by the Hon'ble Court and neither the same are against the settled position of law.

The learned counsel for opp. parties argues that the sabikkhata No.49 recorded in the name of Dhanuram Nial, Gadadhar Nial and one Nara Nial. But the R.S.D. executed does not bear the signature of Dhanuram Nial and therefore it is nonest in the eye of law. But on perusal of the said document, the signature of Dhanuram is clearly visible in the document. Therefore such contention of counsel for opp. parties is not correct.

The learned counsel for opp. parties in his objection states that the present being coparcenary properties having other co-shareor have been sold without consent of other co-R.Ts. and therefore it is invalid and the sale is void in abnatio. The learned Sr. Counsel for petitioners in his rejoinder states that how came the opp. parties have not raised any objection to the sale of a part of case land sold by the co-purchaser Ramchandra Sharma which got mutated in the name of the

purchaser. The R.S.D. without being challenged for so many years in the competent court has reached finality and can not be questioned at this stage.

The learned counsel for opp. parties have objected the revision prayer on the ground that all the legal heirs of the opp. parties have not been impleaded as parties. The learned Sr. Counsel for petitioners refutes this objection as in correct and further states that the O.P. 1&2 have not placed on record any such documents indicating the name of legal heirs of Nara Nial, BanaNial and if at all there were other legal heirs who were not made parties having not intervened in the matter. Hence such objection is of no consequence.

The other objections raised by the opp. parties counsel has not been answered as those objections as per the Sr. Counsel for the petitioners has been denied. While advancing arguments on points of merits and law, the learned Sr. Counsel for the petitioners and learned Counsel for the opp. parties have relied up on the following citations.

Citations relied upon by the counsel for the petitioners

1. 2003(2) OLR 306
2. 2007(1) OLR 595
3. 2008(2) OLR 385
4. 2011(1) OLR 145
5. 2016(Sup.1) OLR 143
6. 2019(Vol.8) Sup.609
7. WA NO 24/2017 Durga Charan Roul v/s Bhagirathi Roul
8. 1998(7)SCC123 N. Balakrishnan v/s M. Krishnamurty
9. 1987(2)SCC 107 Collector(LA) V/s katji
10. 10.2013(12) SCC 649 EshaBhatacharjee v/s RaghunathpurNafar academy

Citation relied upon by the counsel for the opp.parties.

1. W.A. No.24/2017 Durga Charan Roul Vrs. Bhagirathi Roul

This court has taken lead from the decision of Hon'ble Supreme Court on matter of condonation of delay: (I) **Peruman Bhagvathy Devswan Vrs. Bhargavi Amma Thr: Lrs on 11th July 2008 and (II) Katari Satyanarayan and others Vrs. Koppisathi Subba Rao and others on8th April 2009.**

After going through the factual aspects, arguments and counter arguments by the respective counsels, the court came to the findings that the sale deed bearing No.442 of 1950 is a genuine document. The reasons stated by the learned Sr. Counsel for the petitioners for filling the revision after a long lapse of 43 years has

some valid reasons "**sufficient cause**" behind it for its acceptance and therefore the delay has been condoned. Moreover the report of Revenue Inspector and Tahasildar confirms the "**settled possession**" of the petitioners over the case land since the date of purchase having boundary on it. This "**settled possession**" of the petitioners over the case land since the date of purchase have got a clear confirmation in Hon'ble **Supreme Court's decision on Poonam Ram Vrs, MotiramTh:Lrs on 29th January 2019**.

Keeping in view of the above factual description and analysis of law points passed in the decisions of Hon'ble High Court and Supreme Court, I am inclined to allow the revision prayer as there exists a primafacia case in favour of the petitioners.

Accordingly, the Tahasildar ,Kantabanji is directed to correct the R.O.R. in favour of the petitioners and issue corrected ROR in the name of the petitioners.

Order pronounced in the open Court today.

Sd/-

Addl. Commissioner, C & S, Sambalpur

Consolidation Revision Case No. 116 of 2020

Decided on 01.03.2021

(Order by Addl. Commissioner Consolidation and Settlement, Sambalpur)

Rajkumar Beriha ..... Petitioner

Vrs.

Pradeep Kumar Patel ----- Opposite Party

ORDER

The instant Revision Petition has been filed by the learned Sr. Advocate for petitioner U/s 37(1) of the O.C.H.& P.F.L. Act, 1972on 07.09.2020. The Petitioner claims for recording of the below scheduled land from the hal consolidation R.O.R. by deleting the name of the Opposite party. Further the Learned Advocate for the petitioner has prayed for a Stay of operation of the consolidation R.O.R.

Land Schedule.

Village	M.S.Khata No.	Plot No.	Kisam	Area
Pardhiapali	159/33	125/2188	Patita	Ac.0.30

On preliminary hearing a temporary Stay was granted till appearance of the O.P. The O.P. appeared on 22.9.2020 and Stay was vacated. The case was kept for hearing on admission on 03.10. 2020. It was extended to 05.10.2020 as Saturday was declared holiday by Government.

Heard both of them.

The Learned Advocates for petitioner & O.P. havebeen asked to filewritten submission on question of maintainability & admissibility of the case.

On perusal of the revision prayer &written submission and the documents available in the record, the following facts emerge out for deciding as to whether this revision is maintainable or not?

The aforesaid land in question form a part of land which had been declared ceiling surplus under O.L.R. Act by the Tahasildar-cum- Revenue Officer vide Ceiling Case No.98/1975. And subsequently the said Surplus Land had been distributed to the beneficiaries.The present case-land is one such land sanctioned as ceiling lease in favour of oneRajanPaikvide OLR Lease Case No.10/1984.

After death of RajanPaik,his son Suresh Paik& his minor sons sold the case-land to one Subash Chandra Mahalingvide Sale Deed No.1472 dated 27.6.1997. Thereafter, Subash Chandra Mahalingthrough General Power of Attorney Holder, sold the case-land to the present petitioner vide R.S.D. No.11621303304 dated 26.7.2013.

The Opposite Party, Pradeep Kumar Patel purchased Ac.0.60 of land from Plot No.275 of Consolidation Khata No.227 from Santosh Pradhan vide R.S.D. No.11621101774 dated 13.4.2011 which partly corresponds to the case-land. Thereafter, he filed a Revision case bearing No.1677/12 which was allowed by this court and the same got mutated in his name vide Chaka Khata No.228/413 containing Plot No. 275/1859.

A cursory look at the revision prayer reveals that, the Learned Advocate for petitioner advances his argument on question of legality of the sale of the case land by the grandson of original C.S. Lease holder.

He points out that, the sale was done at the back of the real owner.He further argues that, both revision and mutation were allowed in favour of the O.P. without proper inquiry of relevant facts.

The learned Advocatefor the petitioner stated thatthe earlier Revision case No.1677/2012 was totally illegal &void abinitio & not sufficient for passing of title because the vendor did not have valid title to transfer & the case land was already vested to government in Ceiling proceeding.

On the other hand, the Learned Advocate for O.P.has contested in the present revision case and advanced counter on maintainability of the present revision.

He argues that, power conferred under Section 37(1) of O.C.F.& P.F.L.Act is not to recall or set aside previous order but to examinethe correctness of the record, prepared by subordinate authority for the purpose of satisfying himself on Law points,irregularities and correctness of the proceedings.

The present Revision suffers from the Law of Limitation as the filing of the present Revision after 08 years without sufficientreasons & convincing explanation of delay.

The Court cannot recall/review or pass any order in R.C.No. 1677/2012 as it is hit by the principle of"res judicata".

The Learned Advocate for O.P. further counters on non-addition of party in previous R.C. No.1677/2012.

The Learned Advocate for O.P. states, the present Revision is not maintainable as it is based on a void document executed by a wrongful person in favour of the petitioner.

Having heardboth the Learned Advocates for the Petitioner & O.P. and on perusalofdocuments filed, this Court feelsthat, the matter involves in this revision requires to be heard on merit. The argument and citations filed by both parties on question of maintainabilityshall be taken up while examining the issues and Law points involved in the present revision.

Gist of Written argument & counter argument

1. The learned Advocate for Petitioner, while initiating his argument, states that so far as Right, title and interest of the petitioner is concerned, the cause of action arose from the year 1985 and subsequent date of transfer, i.e., 1997 & 2013 which are after the commencement of consolidation operation and closure of the same. The Section 51of O.C.H. & P.F.L. Act empowers consolidation authority to decide the Right, title and interest in such area. The O.P. objects that, Section 37(1) does not expressly speaks of the matter to be dealt with.

But, the learned Advocate for petitioner argues that, the present revision is well within the provision of Section 37(1) as the ROR prepared by the lower consolidation authority on the basis of sale effected by the grandson of M.S. recorded tenant whose title in respect of the said land has been vested with Government in Ceiling case prior to sale to O.P. Thus,the said transaction is void and therefore, consolidation ROR prepared in the name of O.P.needs to be set aside by this court.

The learned Advocate for OP states that,the present revision is barred by the Act of Limitation as there is a delay of more than 8 years in filing the present revision. The present revision petitioner has not explained sufficient reasoning for delay on filing the revision.

The learned Sr. Advocate for petitioner refutes the same and states that, the provision u/s 37(1) of O.C.H. & P.F.L. Act does not speak of Limitation & taking shelter of this court in filing revision is not barred by limitation.

The learned Advocate for O.P. states that, since the case-land is ceiling surplus & Ceiling lease decided under O.L.R. Act, the present Court lacks jurisdiction to decide the matter.

The learned Sr. Advocate for petitioner states that, the above contention of O.P. is not supported by law. Since the case-land purchased by the petitioner, vide

Sale deed, it is coming within consolidation area& in consolidation area, right, title & interest can be decided by the consolidation authority.

The O.P's learned Advocate argues that, since the present court had allowed the revision, involving the case-land vide R.C. No.1677/2012, it cannot review / or recall the said order. In his counter to such an objection, the Advocate for petitioner states that, the order obtained in the said revision was based on suppression of material facts. By that time, the Land was vested to government & the said vendor had no title to transfer.

The learned Advocate for O.P. whileobjecting to the revision points out that, the persons like Suresh Paik, Santosh Pradhan, Suresh Mahalik, though mentioned in revision prayer being involved in the transaction of case-land haven't been impleaded as party and therefore the revision suffers from serious flow of non-joinder of necessary parties.

In his reply, the learned Sr. Advocate for petitioner states that, the Revision Case No.1677/2012 was filed with suppression of material facts as the petitioner had got interest in the said property based on registered documents and possession over it.

The leaned Advocate for O.P. further alleges that, the petitioner had not approached the court with clean hands.He concealed the material facts and managed to procure justice.

In his reply, the learned Sr. Advocate for petitioner states that, such wild allegation is not supported by facts & Law. He counters it by saying that the O.P. managed to take an order & prepare a document & is guilty of unjust enrichment by not disclosing the right & interest of the petitioner. Therefore such contention by O.P. is totally unjustified.

The learned Advocate for O.P. makes an argument saying that, the present revision is without any basis& it should be rejected. The present revision prayer had not disclosed any cause of action.

It is also pointed out by the learned Advocate for O.P.that, even if SubashMahaling purchased the case-land since 27.6.1997, he did not challenge the sale deed of O.P. till date & therefore present petitioner has no locusstandi to file the present revision challenging the same.

The Advocate for petitioner states that, such contention of the O.P. being false is hereby denied.

The petitioner & the predecessors-in-interest of the petitioner was never debarred from enjoying the case-land till date rather the O.P.'s claim for title over the case-land based on invalid document, executed by the vendor who had no title to pass the same to O.P.

While objecting to the revision, the learned Advocate for O.P. further alleges that, the petitioner's claimover the schedule A land on the basis of void document executed by a wrong person, is illegal.

The Advocate forpetitioner denied such contention of the O.P. as false and asked O.P.to prove the same as per law.

The Advocate for O.P. argues that, the revision petition is ambiguous, insufficient, confusing and fabulous one & without legal basis and the petition is self-contradictory basing on vicious grounds.

In his reply, the learned Advocate for petitioner states that, the order obtained by O.P. in R.C. No. 1677/2012 & subsequent correction of RORis not existing as per law being abinitio void and nullity. The revision prayer cannot be dismissed as per O.P.'s prayer.

The O.P. further argues that, the revision petitioner does not mention the particular of the order passed on which date is under challenge in revision court and it should be dismissed in limn.

In support of his argument, the learned Advocate for O.P. filedmemo of citation. In one of the judgement of Hon'ble High Court published in **2009(Sup.II) OLR- 911,** the Hon'ble Court observes that: "**the caulusion arrived at by the settlement authoritiescannot stand on the way or cannot be treated as 'resjudicata' so far as the proceedings initiated under the Consolidation Actor Civil Suit as the case may be , in respect finding with regard to right, title & interest is concerned."** In another judgement, **published in 106(2009)CLT 359, the Hon'ble High Court observes that, Sale deed- jurisdiction- validity of- Consolidation authorities cannot set aside any Regd. Deed- Civil Court alone has jurisdiction.**

In his final written argument, the learned Advocate for O.P. reiterates the same facts concerning the Ceiling case, Lease Case & notification u/s 3(1) of O.C.H. & P.F.L. Act. In para 5 & 6, the learned Advocate for O.P. raise question about the Lease Patta granted in favour of Rajan Paik. The said Rajan Paik is not a landless person & thus he is not entitled for sanction of Lease in his favour. The learned Advocate for O.P. argue that, the village-Pardhiapali was declared Urban area vide Orissa Gazette notification No.207 UD dt. 14th July, 1972 vide Orissa government in Urban Development Department Notification No.6956 dated 5th July, 1962 & notification No.12260-UD dt. 5th July 1969. So, the Lease Patta granted vide Lease case No. 10/1984 dt.26.12.1984 is illegal & void. Further he points out that, no lease can be granted for agricultural purpose in any village which already been notified as urban.

The learned Advocate for O.P. has further brought the fact that, the sale deed executed by Suresh Paik & minor sons is illegal & void as the same has not

been supported by the order of Guardianship Court for sale of minor share as required u/s 8(1) of Hindu Minority & Guardianship Act, 1956.

The learned Advocate for O.P. further submits that, as Section 41 of O.C.H.& P.F.L. Act is already promulgated & all land owners are recorded and issued with Consolidation ROR as token of their possession over it.

The learned Advocate for O.P. files an affidavit sworn in by Suresh Paik which reveals that Sri Suresh Paik has delivered the possession of his land as per M.S.ROR Plot No.125/2188.

In his reply to the above written argument of O.P. dated 11.2.2021, the learned Sr. Advocate for petitioner refutes the argument contained in para 1 to 6 &it is statement without documentary support.

He further says that the Ceiling Surplus/ Ceiling Lease etc disposed of as per provision of O.L.R. Act Rules cannot be questioned by any other authority including the Consolidation Court. The O.L.R. Act is not a suit whereas jurisdiction available with this court is well defined u/s 51 which speak that, the Consolidation authority cannot decide matter for which jurisdiction of other Revenue courts in any other Law is available. The learned Sr. Advocate for petitioner counters that, the above point has not been replied by the O.P. The learned Sr. Advocate for petitioner taking clue from the referred decision of Hon'ble Court, the OLR authority is very much within his jurisdiction of sanction Lease in an area declared urban & therefore the contention of O.P. that OLR Act & Rule does not correct. The urban notification issued u/s 73(C) &it is without any basis.

Similarly while refuting the argument of the O.P..that, the sale executed by Suresh Paik & sons is violating Section 8(1) of Hindu Guardianship & Wards Act,1956, the Sr. Advocate for petitioner says that, is not applicable as it is self-acquired property of Lessee and after his death, it is only sons and not grandson has ought to transfer. Moreover the sale deed can be challenged within 3 years of obtaining their majority as per article 60 of Limitation Act & if it is not challenged, then it reaches finality.

In his defence, the learned Sr. Advocate for petitioner cites the provision of Section 8 of Succession Act which confers right of succession only on the on y on the son of predeceased son & not on a grandson & provision of Guardianship Act is not applicable. In this connection, this Court is of the view that, the provision of Section-8 of Hindu Succession Act as quoted by the learned Sr. Advocate for petitioner is not applicable in this case.

In his counter to O.P.'s contention that, Civil Court has got jurisdiction where the Officer or the authority has not been empowered to grant the same.The learned Sr.Advocate for petitioner argues that, dragging the issue to Civil Court by the O.P. on the basis Court's decision is without any basis.

Finally, the learned Sr. Advocate for petitioner denied the relevance of the argument & citation in the present revision for non-existence of right of the father of the O.P. at the time of transfer when the said land has already been vested to government.

An analysis of the facts & Law Points, it is clear that, the case is fit case to be heard & disposed of on merit as it involves substantive rights in property within consolidation area. Thus, the contention of O.P. is denied & the case was admitted to be heard on merit.

The learned Advocate for O.Ps have argued that, the revision prayer is hit by the Section (5) of the Limitation Act as there is delay of more than 8 years in filing the present revision.

The learned Sr. Advocate for petitioner in his reply said that, by saying that, the revision prayer is not barred by limitation &the OCH & PFL Act does not specify any time limit and the court can at any time call for & examine any records. The Section 37(1) of OCH& PFL Act confers "unfettered power" & "extraordinary jurisdiction"

Having gone through the above submission of both parties, this Court views that delay in this revision is to be viewed liberally as the substantive issues of right to property is involved & therefore the delay as explained is sufficient & thus condoned.

Both the learned Advocates argue against the validity of sale deeds involved in the earlier revision.

The learned Sr. Advocate for petitioner argues that, the O.P. has got no right, title & interest for the case land & he is not entitled to be recorded in the Consolidation ROR because Santosh Pradhan, the guardian of Consolidation Land holder had no right, title and interest over the said Land as that was vested to government much prior to the execution of sale deed.

On the other hand, the Advocate for O.Ps also argues that, the sale deed executed by Suresh Paik & others vide RSD No.1472 dated 27.6.1997 is also void in-ab-initio as no permission as required u/s 8(1) of Guardianship & Wards Act 1956 has been obtained from the District Judge prior to sale.

From the above arguments, by both the parties, it is clear that, the sale deeds bearing No.1472 dated 27.6.1997 & No.11621303304 dated 26.7.2013 are voidable as both violates the statutory provisions where the sale made by the grand-son of C.S. land holder Santosh Pradhan is without title as the said land had already been vested to government & became government land after finalisation of Ceiling Case No.98/75. It violates Section 54 of the T.P. Act. The decision reported in **2013(1) OLR 584**, **the lordship** after referring to **Section 54 of T.P. Act held**: "**Ifthe vendor has no subsisting right to convey infavour of a purchaser, then the RSD is in-consequential**."

In this connection, the decision of Hon'ble Supreme Court passed in **(GorakhnathVrsHari Narayan)published in AIR-1973 S.C.-2451** is relevant. **The legal position which can be cuddled out is that, validity of sale deed can also be looked in to by the consolidation authorities, although they do not have jurisdiction to cancel it. They can very well see as to whether deed in question on the basis of which right, title and interest is claimed is a void document, if so then can very well ignore it by declaring it to be ineffective however, if the Legality being pointed out in respect of the document is such that,it would at best be voidable at the instance by the aggrieved party, then in such an event, the Consolidation Courts are bound to give effect to such documents, unless and until it is cancelled by the competent authority, voidable documents cannot be ignored by the Consolidation Courts.**

The citations of the Hon'ble Court referred by the Advocate for the petitioner is valid for taking a view that, the sale deed involved in the revision are voidable & the petitioners as well as O.P. do not have valid title to transfer the case-land in the absence of legal support on point of law.

Similarly in another judgement of Hon'ble High Court published in **107(2009) CLT page 184 para-8**, their Lordship observed that, **" If the vendor acquired no property right in the property in question, he could not, in turn, pass on any better title than what hepossessedby virtue of the sale deed in his favour. Any judgement or decree, which is not inconformity with Law, is void & remains inexecutable as it is, defeats the public policy."**In view of the above points of Law as reflected in the decision of Hon'ble High Court, I think, the sale deeds challenged and involved in the present revision are violating the provision of Law & thus, such issues are to be decided by the Competent Civil Court & it cannot be decided in this forum.

The learned Sr. Advocate for revision petitioner in his petition seeks the indulgence of the court to set-aside the earlier order & to record the case-land in favour of the petitioner as the said transaction is not inconformity with the provision of Law.

But the learned Advocate for O.Ps. argue that the revision court cannot review & set-aside its own order. It can be challenged before & set aside by the competent Civil Court or Writ Court.

Since the earlier revision order & present prayer are in collusion and challenge the legality of each one, this can be well decided by the Competent Civil Court.

Another important question raised by the learned Sr. Advocate for O.P. is that the present revision relates to the village- Pardhiapali, where the case-land is situated. The said village has beennotified as Urban area. Vide Orissa Gazette NotificationNo.207/CAD/dt. July 14th, 1972 vide Government in U.D.Department Notification No.6956/LS G dt. 5th July, 1962 & Notification No.12260-UD dt.5th July

1969. Therefore the Ceiling Lease granted vide Lease case No. 10/1984 dated 26.12.1984 is illegal and null & void. In this connection the Advocate for O.P. relies on Hon'ble High Court of Odisha that published in 104(10070) CLT has observed;: "ORISSA GOVT. LAND SETTLEMENT RULES 1963, Rule 6(4) r/ w.Section 51(2) of ORISSA LAND REFORMS ACT,1960- Area declared as Urban area- **No land in that area to be leased for agricultural purpose."**

In view of the Hon'ble Court clear and explicit view stated above, the Lease granted in favour of target group is against the provision of Law prevalent at that time.

In this connection, the Tahasil authorities should have been more careful while making distribution of Govt. Land.

The learned Sr. Advocate for petitioner in support of his claim & argument has relied upon the provision of OLR/OCH & PFL Act and the following judgement of Hon'ble High Court &Supreme Court:

Section 45, Section 51(2), 38(A), 38 A(10)(a), 34-A(10)(66), 61, Section-11, Section-3, Section 51 of O.C.H.& P.F.L., section-54 of T.P.Act.

- 1996(II) OLR page 341(para 12)
- 107(2009)CLT, page 184, para 8.
- AIR 1973 SC 2451(GorakhnathDubey-v-Harinarayan Singh)
- AIR 1983-SC 684 (State of Bihar-v- Sri Radhakrishna Singh)

In opposition, the learned Advocate for O.P. has relied upon the following judgement of Hon'ble High Court & Supreme Court in support of his claim & law points:

Section 3(1), Section(4) of OCH & PFL Act, 1972, Section 8(1) of Hindu Guardianship & Wards Act, 1956 :-

- 104(2007)CLT 39
- 1984(I) OLR,887
- 100(2005) CLT 616
- Orissa Gazette July 14,1972
- Affidavit of Suresh Paik dated 13th July.

Having gone through the factual aspects of the case & arguments/ counter-arguments extended by both parties & the points of law relied upon by way of quotation

of provision of Law & judgement of Hon'ble High Court & Supreme Court, it is clear that :

The present revision prayer suffers from following defects such as-

(**i**) After 3(1) notification on 30.10.1978under O.C.H. & P.F.L. Act, 1972 in respect of village- Pardhiapali, how the Revenue authority, i.e., Tahasildar could start lease proceeding in 1984without permission from governmentviolating the provisions of the said Act and distributing lease patta in Sabk Khata after final publication of ROR under Section 22(2) of the said Act in 01.3.1984?

(**ii**) The sale deeds involve in earlier & present revision are voidable in nature because these sale deeds violate the basic principle of Law. The Sale deeds being executed by one Santosh Pradhan in favour of Pradeep Patel is illegal and is voidable. Secondly the sale deed executed by Suresh Paik& the minor sons violates Section 8(1) of Hindu Guardianship & Wards Act, 1956 which is executed without prior permission of District Judge. The same is also voidable because the recital of the deed also speaks that, the sale is made to meet medical expense of father & not for the betterment of minor or family as a whole which also violates the provision of the said Act.

(**iii**) Since the Urban Area notification of Mouza- Pardhiapali precedes the sanction of Lease under OLR Act, it violates the Section 73(C) of OLR Act & thus the Lease granted in favour of Rajan Paik is illegal &voidable in nature.

In this connection, the observation of Hon'ble High Court in ***Sarat Chandra NayakVrs. Commissioner, Consolidation*** [published in CLT (2005) page 619 to 625] is worth following **on the question of right** title and interest and liability depend and hinge on the decision on the **connected questions which have to be decided ancillary and incidentally . Sometimes, in order to**" **secure the relief, the suitor has to clear hurdles and impediments standing on the way. Those hurdles may be judgement ororder of the court or a document. Solong as the hurdles stand on the way, grant of relief is not possible and permissible. It has to be removed.The Civil Court alone has jurisdiction to set aside judgement or order or a document of transfer..... the jurisdiction to set aside such document, transaction, judgements or decrees which are voidable and need avoidance, vests in the Civil Court but not in the Consolidation authorities.**

(iv) While analysing the facts & provisions of Law, it is also noticed that, the litigation grow due to communication gaps between Tahasil(Revenue) authorities & Consolidation authorities working at the field level.

Hence, I find the present revision involves complicated question of facts &lawand it is purely civil in nature which can be best adjudicated by the Competent Civil Court.

Thus, the case is disposed accordingly.

Pronounced the order in the open court today.

Sd/-

Addl. Commissioner, C & S, Sambalpur



GOVERNMENT OF ODISHA

J O U R N A L
OF THE
BOARD OF REVENUE, ODISHA

(Containing important Orders of different Revision Courts under the Board of Revenue, Odisha.)

VOLUME – II

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FOREWORD

It is a matter of great pleasure that the second volume of the Journal of the Board of Revenue is being published in 2026.

The responsibility falls squarely upon the Presiding Officers of the Revision Courts to pass rational, comprehensive and judicious orders.

It is hoped that this publication will be immensely helpful to Revenue Officers and concerned legal professionals. Substantial efforts are needed to adjudicate land disputes in a transparent manner and enforce the protective framework available for common property resources, forest land, Deity endowments and lands belonging to ST and SC persons.

I hope this compilation will help in refreshing memory and building proficiency of all concerned thereby, facilitating qualitative and expeditious disposal of pending revenue cases at different levels.

Suggestions for improvement are solicited and shall be appreciated.

Sd/-
Satyabrata Sahu
Member,
Board of Revenue, Odisha, Kataka

Date : 01.09. 2026
Kataka

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	Director of Estates & Ex-Officio & Addl. Secretry to Govt. G.A. Department & others	**Opp. Parties**	92 to 96
8.	**OSS Case No. 401 of 2018**		
	Umakanta Mishra	**Petitioner**	
	-Versus-		
	Tahasildar, Jatni & others	**Opp. Parties**	97 to 100
9.	**OSS Case No. 739 of 2015**		
	Sarifa Khatun & others	**Petitioners**	
	-Versus-		
	Asst. Settlement Officer, Bhubaneswar & others	**Opp. Parties**	101 to 108
10.	**R.P. Case Case No. 2548 of 1997**		
	Kusa Dalei (since dead) substituted by Niranjan Dalei & another	**Petitioners**	
	-Versus-		
	Subani Rout (since dead) substituted by Janaki Rout & others	**Opp. Parties**	109 120
11.	**R.P. Case No. 80 of 2022**		
	Narayan Pani & another	**Petitioners**	
	-Versus-		
	Jayadev Mishra & another	**Opp. Parties**	121 to 124

12.	**R.C. Case No. 301 of 2024**		
	Nimain Charan Nayak & others	**Petitioners.**	
	-Versus-		
	Raj Kishore Sethi & others	**Opp. Parties.**	125 to 128
13.	**OSS Case No. 1258 of 2022**		
	Dibyadham Jogashram Trust , Chakratirtha Road, Puri	**Petitioner**	
	-Versus-		
	Manorama Das & others	**Opp. Parties**	129 to 132
14.	**Revision Petition Case No. 50 of 2022**		
	Sipra Das	**Petitioner**	
	-Versus-		
	Surendra Nath Sen & others	**Opp. Parties**	133 to 135
15.	**SRP Case No. 56 of 2024**		
	Lakshyapati Bhoi	**Petitioner**	
	-Versus-		
	Hanuman Prasad Agrawal (Dead) represented by his legal heirs Pooja Agrawas & others	**Opp. Parties**	136 to 138
16.	**SRP Case No. 863 of 2017**		
	Dusasan Naik & others	**Petitioners**	
	-Versus-		
	Saibani Sabar & others	**Opp. Parties**	139 to 141
17.	**Revision Petition Case No. 220 of 2021**		
	Susanta Parida & others	**Petitioners**	
	-Versus-		
	State of Odisha, represented through Tahasildar, Marshaghai & another	**Opp. Parties**	142 to 152

18. **OSS Case No. 1376 of 2019**
Chittaranjan Jena **Petitioner**
-Versus-
Settlement Officer,Cuttack & another **Opp. Parties** 153 to 158

19. **Misc. Case No. 04 of 2022**
(Arising out of R.P. Case No. 587 of 2015
State of Odisha represented by the
Tahasildar, Kataka Sadar, Kataka **Petitioner**
-Versus-
P. K. Sahoo & another **Opp. Parties** 159 to 164

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Misc. Case No. 47 of 2018
(Arising out of OSS Case No. 109 of 2014)

Decided on 30.06.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Cuttack.)

Bimala Sahoo ..... **Petitioner**

-Versus-

Shree Jagannath Mahaprabhu Bije, Puri Marfat Managing Committee through the Administrator, Sri Jagannath Temple Managing Committee, Puri & others ..... **Opp. Parties**

For the petitioner ... Mr. K. M. Samal, Advocate & Associates
For Opposite Party No. 1 ... Mr. S.S. Das, Advocate
For Opposite Party No. 2 & 3 .... Mr. K.K. Das, Standing Counsel

Odisha Board of Revenue Act, 1951—Section 7—Orissa Board of Revenue Rules, 1959—Rule 4—Review of Revision Order- Debottar Property of Lord Jagannath- Alienation of Deity Land—Absence of Clear Flow of Title—Limitation—Error Apparent on the Face of Record.

Held: The review petition seeking review of the order dated 09.03.2018 passed in O.S.S. Revision Case No. 109 of 2014 was dismissed. The disputed land, though recorded in the 1986 Hal RoR in the petitioner's name under Stitiban status, was historically recorded in the 1929 and 1970 RoRs as **"Debottar Amruta Manohi Lakhraj Bahel"** with Shri Jagannath Mahaprabhu, Bije Puri, as the Lakhrajdar. The petitioner relied upon a registered sale deed of 1978 but failed to establish a clear and lawful flow of title from the vendor. In view of the Government and Board of Revenue guidelines issued pursuant to the Shri Jagannath Temple Act, 1954, lands belonging to Lord Jagannath are required to be recorded in the name of the deity Marfatdar Shri Jagannath Temple Managing Committee and alienations of such lands without competent permission are impermissible. The review petition was also filed beyond the prescribed period of limitation by 117 days, for which no satisfactory explanation was furnished. Finding the prayer to be not bona fide and no ground for interference with the order dated 09.03.2018, the Board dismissed the review petition.

. DECISION

1. This review petition has been filed by the petitioner, u/s 7 of the Odisha Board of Revenue Act, 1951 read with Rule 4 of the Odisha Board of Revenue Rules,1959 for review of order dated 09.03.2018 passed by this Court in O.S.S Case No. 109/ 2014 which was filed by the present petitioner u/s 32 of the O.S.S Act, 1958 read with Para- 111 of Mutation Manual against the Order dated 04.07.2014 of the Sub-Collector, Cuttack passed in Mutation Appeal Case No. 83/2007.

SCHEDULE OF PROPERTY

Village- Sukarpada, Tahasil- Nischintakoili, District- Cuttack.

	Khata No.	Chaka no.	Plot No.	Area	RT
HAL ROR published on 29.03.1986	28	252/685 Mula Ghai	590/2400	Ac.0.367dec .	Shri Jagannath Mahaprabhu Bije Puri Marfat Shri Jagannath Temple Managing Committee, Puri

2. The background of the case in brief is that the petitioner claims to have been recorded as a Stitiban Rayat of the suit land where Shri Jagannath Mahaprabhu of Puri was recorded as Khewat no.2 in the Hal RoR published in the year 1986. However, Tahasildar, Nischintakoili, instituted a *suo motu* mutation case no.1275/ 2007 and passed an order dtd.31.03.2007 to record the case land in favour of Shri Jagannath Mahaprabhu Bije Puri Marfat Shri Jagannath Temple Managing Committee Puri in Sthitiban status. Consequently, the petitioner challenged the mutation order before the Sub Collector, Cuttack Sadar, by filing a mutation appeal case no. 83/ 2007. The learned Sub Collector held that there was no irregularity in the order of Tahasildar Nischintakoili and dismissed the mutation appeal filed by the petitioner vide his order dtd. 04.07.2014. Being aggrieved by the appeal order, the petitioner filed O.S.S RC No. 109 of 2014 in this Court u/S 32 of the O.S.S Act, 1958 read with para 111 of the Odisha Mutation Manual,1962. The learned Advocate for the petitioner and the Standing Counsel for the Government officials were heard on merit by this Court and the revision was dismissed as not maintainable on dt.09.03.2018. The petitioner has filed the present review petition on dt.04.07.2018 praying for re-adjudication of the matter on merit.

3. The petitioner and the OPs are legally represented by their respective learned Advocates. Heard the learned Advocates for petitioners and OP no.1 in the presence of the learned Standing Counsel who represents Respondent No. 2 & 3. Learned Counsel for the petitioner was present on different dates of hearing but has failed to file his written note justifying reasons for allowing the review petition even though he was asked to file the same on three(3) different court dates i.e. 05.08.2025, 31.03.2026 and 02.06.2026.

4. The certified copies of order sheets in the primary revision case, mutation case, appeal case, photocopies of RSD, RoRs and written note along with the relevant legal citations filed by the learned Advocate for the OP no.1 are a part of the case record. The case has been taken up based on the documents on record.

5. It is observed from the photocopies of the RoRs and the RSD submitted by the petitioner and enclosed in the primary case record that –

(i) In the RoR of year 1929, the Sattwa was noted as 'Debottar Amruta Manohi Lakhraj Bahel' and Lakhrajdar was Shri Jagannath Mahaprabhu Bije Puri Sebayat Taponidhi Benudhara Giri Gosain Chela Kunja Bihari Guru Gosain and others.

(ii) In the RoR of year 1970, the Sattwa was noted as 'Debottar Amruta Manohi Lakhraj Bahel' and Lakhrajdar was Shri Jagannath Mahaprabhu Bije Puri Sebayat Taponidhi Benudhara Giri Gosain Chela Kunja Bihari Guru Gosain and others.

(iii) One RSD was executed in the year 1978, a registered sale deed for the transfer of the suit land was executed by one Chakradhara Baral in favour of the petitioner.

(iv) The suit land got recorded in the name of the petitioner as RT in the RoR published in the year 1986 under 'Sthitiban' Sattwa and Khewat name as Shri Jagannath MahaprabhuBije Puri Sebayat Taponidhi Benudhar Giri Gosain oger 2nd part Khewat no.2. However, there is no clarity on the flow of title on the basis of which the name of the petitioner was recorded in the RT column.

6. It will not be out of place to quote the relevant excerpts of some relevant guidelines of the Government in light of Shri Jagannath Temple Act, 1954 (Act 11 of 1955) ***:***

(i) As per the Govt. Circular no. EA-II-7/92-17920/R, dtd. Bhubaneswar, the 3rd April,1992, it is mentioned that *Section 33(1) of the Act 11 of 1955 provides that the Committee shall be entitled to take and be in possession of all movable and immovable properties belonging to the temple. This provision is clearly meant to apply to properties that are not in possession of the temple, being properties in the possession of the Mathas and other marfatdars.* It has also been clarified that *the properties endowed to Lord Jagannath are outside the purview of the Odisha Hindu Religious Endowment Act. The estate is clearly, according to vesting notification belongs to Lord Jagannath. Hence, claims under section 6 & 7 of O.E.A Act by a recorded Marfatdar other than Shri Jagannath Temple Managing Committee in respect of estates of Lord Jagannath are not maintainable.*

(ii) As per the Board of Revenue Circular no. XLII-7/92-16935/LRS, dtd. 26.12.1992, it was specified that all such lands recorded in the old RoR in the name of *Lord Jagannath under rayati or Sthitiban status irrespective of whether the Marfatdar is a Sevak or Math or Private individuals should be recorded in the name of the deity with Shri Jagannath Temple Managing Committee constituted under the said Act as Marfatdar.* Further, it was stated that *Lord Jagannath at Puri has been declared as a privileged Rayat under the OLR Act, 1960. The deity can induct Bhag Tenants on its lands but no tenancy right would accrue over the suit land. Besides all cases of alienation of lands of Lord Jagannath without permission of the competent authority before the commencement of Sri Jagannath Temple Act or thereafter should be treated as illegal and the land records should not be prepared in the name of the transferred. In such cases, the records may be prepared in the name of deity.*

7. For easy reference, the provisions of the section 7 of the Odisha Board of Revenue Act, 1951 and the rule 4 of the Odisha Board of Revenue Rules,1959 are being cited below :

(i) Section 7 of the Odisha Board of Revenue Act, 1951 –

7. (1) The Board may either on its own motion or on the application of any person aggrieved by any order of the Board, review any order passed by itself and pass such order in reference thereto as it thinks fit: Provided

that no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) Every application under Sub-section (i) for a review of any order shall be made within three months from the date of the order: Provided that the Board may in its discretion in any case extend such period, if sufficient reasons be shown for so doing.

(ii) Rule 4 of the Odisha Board of Revenue Rules, 1959 –

With the prior approval of the State Government, the Member shall, in the absence of the authority which passed the original order, hear applications for review in the capacity of his successor in office.

8. In view of the above factual matrix, Government guidelines and the legal position , I do not find any valid ground to entertain the review petition as :-

- There is no error apparent on the face of the record;
- This cannot be an appeal in disguise;
- There is no circumstance of a substantial and compelling character that makes it necessary to allow the review;
- The review petition was filed beyond the period of limitation (117 days) which still remains unexplained;

9. It is evident that the prayer of petitioner is not bonafide and hence, merits no consideration. I am not inclined to interfere with the order dtd. 09.03.2018 of my predecessor in O.S.S RC no. 109 of 2014.

Resultantly, this review petition is dismissed.

Free certified copies of the order to be forwarded to the Sub Collector, Cuttack and Tahasildar, Nischintakoili for information. Original lower Court case records, if any, be returned to the concerned Courts by keeping an attested copy thereof. Original/ Certified copies of the documents filed be returned to the parties by keeping attested photocopies thereof.

Pronounced the order in the open Court today, the 30th day of June, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

OSS Revision Case No. 222 of 2023

Decided on 04.08.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha, Kataka.)

Golakh Bihari @ Golak Mahapatra & others ..... **Petitioners**

-Versus-

Sub-Collector Banki & others ..... **Opp. Parties**

For the petitioner ... Mr. Ch. N.C. Das, Advocate & Associates

For Opposite Party No. 1 & 2 .... Mr. K.K. Das, Standing Counsel

For Opposite Party No. 3 to 9 ... None

Odisha Survey & Settlement Act, 1958—Section 32—Odisha Mutation Manual, 1962—Paragraph 111—Mutation—Registered Sale Deeds—Civil Court Decree declaring Title—Correction of Record-of-Rights—Rule 34 of Odisha Survey & Settlement Rules, 1962—Prima Facie Title Coupled with Possession—Revenue Entries—Fiscal Purpose.

Held: The revision petition was allowed and the order dated 08.06.2022 passed by the Sub-Collector, Banki in Mutation Appeal Case No.01 of 2018 was set aside. The petitioners had purchased an aggregate area of **Ac.0.27 decimals** of the disputed land through two registered sale deeds executed in 1963 and were in possession thereof. Though the land was subsequently recorded jointly in the names of the predecessors of the private opposite parties during the Hal Settlement, the petitioners' right, title and interest over the entire purchased area had been declared by the competent Civil Court in **Civil Suit No.29 of 2007**, which decision was affirmed in appeal and further upheld by the Hon'ble High Court in **RSA No.32 of 2015**. Despite the said decree, the Tahasildar mutated only **Ac.0.20 decimals** in favour of the petitioners and the Sub-Collector upheld the same on the ground that only Ac.0.20 decimals was available for mutation. The Board observed that under **Rule 34 of the Odisha Survey & Settlement Rules, 1962**, the Record-of-Rights is liable to be corrected where an entry has been declared erroneous by a Civil Court decree or is inconsistent with such decree. Further, under **Clause 47 of the Odisha Mutation Manual, 1962**, prima facie title coupled with possession, orders of competent Courts and documents of transfer of title are relevant considerations in mutation proceedings. The executed registered sale deeds and the Civil Court decree confirming the petitioners' ownership over the entire Ac.0.27 decimals remained legally valid and binding. The subsequent partition among the co-sharers could not legally diminish the area already purchased by the petitioners through registered sale deeds. Accordingly, the matter was **remanded to the Tahasildar, Banki for mutation of the suit land in accordance with the judgment in Civil Suit No.29 of 2007**, Rule 34 of the Odisha Survey & Settlement Rules, 1962 and Clause 47 of the Odisha Mutation Manual, 1962.

D E C I S I O N

1. This revision petition has been filed u/s- 32 of O.S.&S. Act, 1958 read with Paragraph 111 of Odisha Mutation Manual, 1962 challenging the order dated 08.06.2022 of the Sub Collector, Banki, in mutation appeal case no.01 of 2018 arising out of mutation order dated 17.11.2017 of the Tahasildar, Banki in mutation case no. 962/2017.

SCHEDULE OF PROPERTY

Mouza- Sunapatana, Tahasil- Banki, District- Kataka.

	Khata No.	Plot No.	Area (in Acre)	Kisam	RT name
Sabik	20	313(part)	Ac.0.27dec.	Sarada II	Ratan Mallick,S/o. Madhu Mallick Nabaghana Mallick S/o. Madhaba Mallick, Jagannath Mallick S/o. Bana Mallick
Hal (Date of final publication 07.04.1962)	28	204(part)	Ac.0.27dec.	Sarada II	Bana Mallick, S/o- Dina Mallick Jagannath Mallick, S/o- Bana Mallick, Nabaghana Mallick, S/o- Madhab Mallick, Ratan Mallick, S/o- Madhu Mallick

2. The subject matter of the case is that the suit land was a joint property recorded in the names of predecessors of OP No. 3 to 9 in Sabik records. The petitioner no. 1 and the father of petitioner no. 2 to 4 purchased an area of Ac.0.13dec.5 Kadi each (total area Ac.0.27dec.) through 02 RSDs from RT Nabaghana Mallick vide RSD no.1905 dtd. 22.04.1963 and Biki Bewa W/o. Late Ratana Mallick vide RSD no. 1758 dtd. 16.04.1963. Consequently, the petitioners had constructed a residential building over the suit land and were in possession but had not mutated the records in their names.

During the Hal settlement, the suit land was recorded jointly in the names of the original RTs instead of vendees. The legal heirs of deceased original RTs got the suit land partitioned amicably vide Tahasildar's order dtd. 23.04.2002 in OLR case no. 19/2001 u/s 19(1)C of the OLR Act,1960. Consequently, the petitioners filed Civil Suit No. 29/2007 in the Court of Civil Judge (SD), Banki. The right, title and interest over the case land were declared in favour of the petitioners. The OPs were also necessary parties in the said Civil Suit. The OP no.7 challenged the order of Civil Suit No. 29/2007 in RFA No. 89/2010 before the Civil Judge (SD), Banki. The said appeal was dismissed vide order dtd.30.07.2014 and the final order passed in Civil Suit No. 29/2007 was confirmed. OP no.7 had further challenged the order passed in RFA No. 89/2010 by filing one RSA No. 32/2015 before the Hon'ble High Court. The RSA was dismissed on dt. 21.04.2016. The ownership of petitioners to the extent of area of Ac.0.27dec. has been upheld by the judgements of the Civil Courts and remains in force till date as stated by the petitioners.

3. The petitioners filed mutation case no. 962/2017before the Tahasildar Banki for recording the case land in their favour on the basis of the final order passed in the Civil Suit no. 29 of 2007. However, the concerned Tahasildar recorded an area of Ac.0.20dec. instead of an area of Ac.0.27dec. in favour of the petitioners vide his order dtd.17.11.2017. The petitioners filed a mutation Appeal case bearing no. 01 of 2018 before the Sub Collector Banki against such order of Tahasildar Banki, wherein the Sub Collector vide his order dtd.08.06.2022 has upheld the order of the Tahasildar citing that an area of Ac.0.20dec. was available for mutation. Hence, being aggrieved with the impugned appeal order, the petitioner has filed the present revision.

4. The petitioners have been legally represented by the learned Advocate Mr.Ch.N.C.Das and associates. Individual notices were issued to the OP no.3-9 through registered post vide letter no. 4263/Peskar (Gen.) dtd. 27.09.2023. No un-served notices have been received with respect to the private OPs. So, the service of notice is deemed to be sufficient. However, no one appears on behalf of OP no.3-9. Learned Standing Counsel has represented the Government officials who are OP no.1&2. The case was finally heard on dt.30.06.2026 in the presence of the learned Advocate for the petitioner and the learned Standing Counsel. All the interested parties

were directed to file their respective written notes within fifteen days but no such written remarks have been received from any of the involved parties.

5. Perused the enclosed LCRs, para wise comments of the Sub Collector, Banki, field verification report/status report of the Tahasildar, Banki along with annexure, photocopies of land records, orders passed in Civil Suit and other relevant documents filed by the petitioners.

6. In the context of the facts of this revision case, the settled principles of law are elaborated below.

Under the Transfer of Property Act 1882, Section 54 deals with how a sale of immovable property is deemed to be completed. If the contract for sale that has been entered between the parties is registered, the sale would be deemed to have been completed. A Division Bench of the Hon'ble Supreme Court, comprising of Justice M.R. Shah and Justice B.V. Nagarathna, passed a Judgement dated 11.04.2022 while deciding the case of P. Ramasubbamma v. V. Vijaylakshmi & ors., Civil Appeal No. 2095 of 2022 and held that once the execution of agreement to sell and the payment/receipt of advance sale consideration is admitted by the vendor, thereafter nothing further is required to be proved by the vendee.

Thus, once a document comes to be duly registered, it becomes fait accompli. The only remedy available to an aggrieved person is to institute appropriate proceedings before a competent court for cancellation or annulment of the instrument.

- As per the Rule 34 of the Orissa Survey and Settlement Rules,1962,

  Grounds on which correction of the record-of-rights and map is to be made are as follows -

  The Tahasildar may on application in that behalf of any person interested or on receipt of a report from any of his subordinate officers or on receipt of a notice from the Registrar or Sub-Registrar appointed under the Indian Registration Act, 1908, or from a Court or on his own motion, order, any charge

of any entry in the record-of-rights according to the rules hereinafter prescribed on any one or more of the following grounds, namely : (a) that all persons interested in any entry in the record-of-rights wish to have it changed; (b) that by a decree in a civil suit, any entry therein has been declared to be erroneous; (c) that being founded on a decree or order of a Civil Court or on the order of any competent authority, the entry therein is not accordance with such decree or order; (d) that such decree or order has subsequently been varied on appeal, revision or review; (e) that any entry therein has no relationship with the existing facts; and (f) that by preparation of a survey record under Chapter II of the Act, any change is necessitated in the record-of-rights.

- As per the clause 47 of the Odisha Mutation Manual, 1962,

Prima facie title coupled with possession is sufficient to merit full recognition in the record-of-rights. The following are some of the more important points which are relevant for deciding mutation cases, namely

(a) the possession under the colour of any title;

(b) the person or persons from whom rent is being received without any objection;

(c) the connection of the present disputants with the persons recorded in the record-of-rights;

(d) orders of competent Court dealing with titles; and

(e) documents of transfer of title,

In the instant revision case, the Tahasildar Banki has submitted his status report vide letter no. 2242 dtd. 29.06.2026 according to which the shortfall area of Ac.0.07dec. which is the subject matter of the case, is in possession of the petitioners even though plot no. 204/253 is recorded in the name of Nilamani Mallick and plot no. 204/256 is recorded in the name of Prafulla Mallick. Moreover, the executed

RSDs and the final order passed in the Civil Suit no. 29/2007 are still legally acceptable and binding with respect to the question of ownership of the land in question.

- In addition to above, it will not be out of place to cite the case of *Suraj Bhan Vs. Financial Commissioner, (2007) 6SCC186, wherein it was observed by Hon'ble Supreme Court that an entry in revenue records does not confer title upon person whose name appears in Record of Rights. Entries in the revenue records or Jamabandi have only 'fiscal purpose'. So far as title is concerned, it can only be decided in a competent Civil Court.*

7. In the context of the present revision case, a civil court decree declaring right, title and interest confirms ownership of the entire area as purchased by the petitioners through registered sale deeds in the year 1963. The subsequent partition in the year 2001 by the co-sharers, vendors and/or their successors cannot legally reduce the petitioners' purchased area. It was improper for the co-sharers to partition the suit land, which rightfully belonged to the petitioners after the Registered Sale Deeds (RSDs) had been executed long before.

8. Resultantly, the revision is allowed.

The impugned order dtd. 08.06.2022 of the Sub Collector, Banki, in mutation appeal case no.01 of 2018 is set aside. The matter is remanded to the Tahasildar, Banki to mutate the suit land records as per the judgment dtd.20.07.2010 in the Civil Suit no. 29 of 2007. Such mutation of the case land will be in consonance with Rule 34 of the O.S.&S. Rules, 1962 and clause 47 of the Odisha Mutation Manual, 1962.

Original lower Court case records, if any, be returned to the concerned Courts by keeping an attested copy thereof. Original/ Certified copies of the documents filed be returned to the parties by keeping attested photocopies thereof.

Pronounced the order in the open Court today, the 04th day of August, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

OSS Revision Case No. 1223 of 2025

Decided on 11.08.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha, Kataka.)

Nagarjuna Sahu ..... **Petitioner**

-Versus-

Rajkishore Sahu & others ..... **Opp. Parties**

For the Petitioner	...	Mr. M.K. Mishra, Advocate & Associates
For the O.P No. 1	....	Mr. R. K. Sahu, Advocate
For the O. P. No. 2 & 3	....	None
For the O.P. No. 4	....	Mr. K.K. Das, Standing Counsel
For the O. P. No. 5 to 7	...	Mr. M.K. Mohapatra, Advocate & Associates

Odisha Survey & Settlement Act, 1958—Section 32—Odisha Mutation Manual, 1962—Paragraph 111—Mutation—Auction Sale under SARFAESI Act, 2002—Equitable Mortgage—Civil Suit and Interim Status Quo Order—Rights of Secured Creditor—Section 34 of SARFAESI Act—Auction Purchaser—Sale Certificate—Mutation of Revenue Records.

Held: The revision was **allowed** and the order dated 25.07.2025 passed by the Sub-Collector, Anugola in Mutation Appeal Case No.03/2014 was set aside. The disputed land had been equitably mortgaged with the Bank of Baroda in 2007 and upon default and classification of the loan account as NPA, the Bank initiated proceedings under the **SARFAESI Act, 2002** and sold the property by public auction. The petitioner, being the bona fide auction purchaser, was issued a registered Sale Certificate and possession was delivered to him. The subsequent civil suit and interim *status quo* order could not override the Bank's statutory rights under the SARFAESI Act, particularly when the Bank was not a party to the interim application. In view of **Sections 34 and 35 of the SARFAESI Act**, the civil court could not restrain measures lawfully taken by the secured creditor under the said Act. Accordingly, the **Tahasildar, Anugola was directed to mutate the suit land in favour of the petitioner on the basis of the Sale Certificate issued under the SARFAESI proceedings**, leaving the parties at liberty to approach the competent court for adjudication of their right, title and interest

D E C I S I O N

1. This revision petition has been filed u/s- 32 of O.S.&S. Act, 1958 read with Para- 111 of Odisha Mutation Manual, 1962 challenging order dtd.25.07.2025 of Sub Collector, Anugola passed in Appeal Case No.03/2014.

SCHEDULE OF SUIT PROPERTY
Mouza- Sankhapur, Tahasil- Anugola, District- Anugola.
(Date of final publication – 23.04.1982)

Khata No.	Plot No.	Area (in Acre)	Kisam	RT name
Before mutation case no.5603/2023 and after mutation appeal case no. 03/2014				
01	634	Ac.0.160	Gharabari	Ainthu Sahu, S/o- Arakhita Sahu
After mutation case no.5603/2023				
501/280	634	Ac.0.160	Gharabari	Nagarjuna Sahu, S/o- Khirod Kumar Sahu
****No plot is available under the Khata no.501/280 as the plot has been deleted vide Revenue Misc. Case No. 277/2025 following the order in mutation appeal case no. 03/2014.				

2. As per the plaint and the certified copy of the impugned order, the suit land was recorded in the name of one Ainthu Sahu. Two of his sons, OP no.2 and father of OP no.3 availed cash credit loan from the Bank of Baroda. The suit land and building over the suit plot was on equitable mortgage securing the cash credit account and OP no.1 acted as the guarantor for the cash credit facility availed by his brothers. The loan was not repaid in time and became a Non Performing Asset (NPA). The bank auctioned the suit land under the SARFAESI Act,2002 (Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002) after issuing public notice for auction in newspapers The Orissa Post and The Sambad on dt. 28.10.2023 and the highest bidder i.e. the petitioner in the instant revision case was issued with a registered sale certificate and delivered possession vide e-Stamp certificate no. IN-OD08017051897881V and RSD no. 10012305871

dtd.12.12.2023 . The present Petitioner is the son of OP no.2 and grandson of the deceased RT. Based on the land transfer, the suit land was mutated in the name of the petitioner vide order dtd.08.02.2024 in mutation case no. 5603/2023 by the Tahasildar, Anugola.

3. When the matter stood thus, the OP no.1, third son of deceased RT and brother of OP no.2 filed a mutation appeal case no. 3/2024 before the Sub Collector Anugola on the ground that Civil Suit no. 165/2021 and status quo order in I.A No. 60/2021 are pending in the Court of Senior Civil Judge-cum-Women's court, Anugola. The Appeal was disposed of with direction to restore the suit land to its previous status until the disposal of the pending Civil Suit and related proceedings. Hence, the petitioner being aggrieved with the order of the appeal court, has filed this revision.

4. The petitioners have been legally represented by the learned Advocate Mr.M.K.Mishra and associates. Individual notice was issued to the OP no.1 who has been represented by the learned Advocate Mr.R.K.Sahu. Similarly, individual notices were issued to the OP no.5, 6 & 7 and learned Advocate, Mr. M.K.Mohapatra and associates have appeared on their behalf. Learned Standing Counsel has represented the Government official who is OP no.4. OP no.2 & 3 were issued with individual notices vide letter no. 795/Peskar(Gen) dtd. 13.02.2026. No notice has returned unserved with remarks. So, it is deemed that the service of notices has been sufficient upon the OPs. The case was finally heard on dt.07.07.2026 in the presence of the respective learned Counsels for the petitioner, OP no.1, OP no.5-7 and the learned Standing Counsel for OP no.4. All the interested parties were directed to file their respective written notes within fifteen days. Accordingly, the written notes of submission have been filed by the corresponding learned Advocates for the petitioner and the private OPs i.e. OP no.1 and OP no.5-7.

5. Perused the enclosed Lower Court Records, para wise comments of the Sub Collector, Anugola, field verification report/status report of the Tahasildar, Anugola along with annexure, photocopies of land records, pending Civil Suit orders, other relevant documents and written notes filed by the petitioner and the OPs.

6. In view of the facts of this case, it is imperative to examine the following legal aspects so as to conclude the matter:-

i. ***What are the rights of a financial institution/bank as a mortgagee of an asset/immovable property?***

It is a fact that an equitable mortgage was created over the suit land in favour of the Bank of Baroda, Karatapatta Branch on dt.12.10.2007 so as to secure the cash credit account opened in the names of Khirod Kumar Sahu and Pramod Kumar Sahu, sons of the deceased RT Ainthu Sahu. The third son of deceased RT, Rajkishore Sahu (OP no.1)remained as a guarantor for the loan account.

In an equitable mortgage under section 58(f) of the Transfer of Property Act,1882, the borrower/mortgagor retains legal title, ownership and physical possession of the case land whereas the lender/mortgagee receives an equitable interest that acts as financial security for the loan. The bank or financial institution which acted as a lender or equitable mortgagee in this case, acquired a specific and non-possessory financial charge over the land since the date of mortgage i.e.12.10.2007 and was empowered to sell or auction the land if a default occurred after following due procedure.

ii. Analysis of the relevant provisions of the SARFAESI Act, 2002 vis-a vis Civil Suit orders;

In this context, when a bank acts as a mortgagee (the lender), it holds specific legal and statutory rights over the pledged immovable property to recover its loan if the borrower (mortgagor) defaults. These rights are governed by general property laws (such as the Transfer of Property Act) and special banking recovery legislations like the SARFAESI Act. Under the SARFAESI Act, 2002, a mortgage gives a bank powerful enforcement rights to recover dues from a defaulting borrower without needing long court battles. Once a loan turns into a Non-Performing Asset (NPA), the bank can directly enforce its security interest. The Bank has the following rights in this regard -

- Right to Issue Notice: The bank can serve a 60-day demand notice under Section 13(2) requiring the borrower to clear the full debt.
- Right to Take Possession: If the borrower fails to pay within 60 days, the bank can take physical or symbolic possession of the secured asset.
- Right to Sell or Lease: The bank can sell the mortgaged property through public auction, private treaty or lease it to recover the outstanding loan amount.

Further, the auction sale by the bank is generally valid because Section 34 of the SARFAESI Act,2002 expressly bars civil courts from granting any injunction or staying measures taken by a secured creditor, making any interim *status quo* order affecting the actions under the SARFAESI Act,2002 non-est in the eyes of the law. Section 34 of the SARFAESI Act explicitly bars Civil Courts from granting injunctions in respect of any action taken or to be taken by a secured creditor (bank) under the Act. Section 35 is the non-obstante clause which states that the provisions of the SARFAESI Act override any other conflicting laws or orders in force. Therefore, a civil status quo order passed in a partition suit cannot supersede the statutory Sale Certificate issued to the petitioner.

As per the written note filed by the respondent Bank, it is observed that due to deliberate default of payment of loan dues, the cash credit account was classified as Non Performing Asset (NPA) on dt.31.12.2015. Thereafter, the provisions of the SARFAESI Act were invoked by issuing the Demand Notice dtd.20.01.2016 u/S 13(2) of the said Act. It is crystal clear from the copy of plaint in the Civil Suit no. 165/2021 and the I.A. No.60/2021 arising out of the primary suit (both applications dtd.05.07.2021) that the Civil Suits have been filed after the respondent Bank had initiated steps for recovery of the default amount as per the SARFAESI Act,2002.

It will not be out of place to cite the matter of *Jagdish Singh v. Heeralal & Ors. (2014) 1 SCC 479* wherein The Hon'ble Apex Court held that the expression "any matter" under Section 34 of the SARFAESI Act is wide enough to include a partition suit. A civil court has no jurisdiction to entertain a partition suit or grant any injunction/status quo regarding a property where the bank has already initiated action under the SARFAESI Act. Further in the matter of *M. Rajendran v. KPK Oils and Proteins India Pvt. Ltd. (2025)*, the Hon'ble Supreme Court has ruled that once an auction purchaser pays the full consideration and a Sale Certificate is issued, they acquire a vested right that cannot be defeated or pulled backward.

iii. Did the lower Court proceed on an appropriate legal premise in passing the appeal order?

It is observed that the learned Sub Collector, Anugola in his order dtd.25.07.2025 in Mutation Appeal Case No.03/2014 has ignored the settled position of law that an Interim Application (IA) under Order 39 Rule 1 & 2 of the CPC,1908 results in an *in personam* order (binding only upon the specific parties to that specific application). Since the Bank was excluded from the IA, the *status quo* order does not legally bind the Bank or restrain it from exercising its statutory power of sale.

Secondly, the equitable mortgage was created in the year 2007 and Demand Notice dtd.20.01.2016 u/S 13(2) of the said Act was issued thereby, establishing a prior statutory right under Section 13 of the SARFAESI Act,2002. A civil suit filed much later in 2021 cannot retrospectively freeze a secured creditor's rights, especially when the recovery action is executed under a special Central Act.

As per the clause 47 of the Odisha Mutation Manual, 1962, *prima facie* title coupled with possession is sufficient to merit full recognition in the record-of-rights. As per the field verification report of the Tahasildar, Anugola vide letter no. 3661 dtd.06.07.2026, it is found that the petitioner Nagarjuna Sahu, his father Khirod Kumar Sahu and their family are in possession of the case land. The sale certificate and the delivery of possession of the auctioned property have also been well documented by the authorised Officer of the Bank of Baroda in favour of the auction purchaser/ petitioner on dt. 04.12.2023. The Hon'ble Supreme Court has reiterated in several judgments that mutation entries in revenue records do not confer, create or extinguish a title. They are purely for "fiscal purposes". Revenue Officers cannot decide the validity of an auction purchase; they must mutate the land based on the official Sale Certificate issued under the Central law, leaving the actual title dispute to be settled by the competent court.

7. In light of the above discussion, the revision is allowed. The impugned appeal order dtd.25.07.2025 of the Sub Collector, Anugola in Mutation Appeal Case No.03/ 2014 is set aside. The Tahasildar, Anugola is directed to mutate the suit land records in the name of the petitioner who is the bonafide auction purchaser of the land in question as per the relevant provisions of the SARFAESI Act, 2002. The aggrieved parties are at liberty to approach the competent Court of law for adjudication of right, title and interest over the suit land, if so advised.

Free certified copies of the order be forwarded to the Sub Collector, Anugola and the Tahasildar, Anugola for necessary compliance within four weeks.

Original lower Court case records, if any, be returned to the concerned Courts by keeping an attested copy thereof. Original/ Certified copies of the documents filed be returned to the parties by keeping attested photocopies thereof.

Pronounced the order in the open Court today, the 11th day of August, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

OSS Revision Case No. 2020 of 2016

Decided on 09.07.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha, Kataka)

Shree Jagannath Mahaprabhu Bije -Puri
Marfat Shree Jagannath Temple Managing Committee
Taraf Administrator, Shree Jagannath Temple, Puri
… … … **Petitioner**

-Versus-

Gourimani Dubey & others .....**Opp. Parties**

For the Petitioner	…	Sri Ambika Prasad Mishra
For O.P No. 1 to 5	…	Sri Ashok Kumar Mohapatra & Associates
For O.P No. 6	…	Mr. K.K Das, Standing Counsel

Orissa Survey & Settlement Act, 1958—Section 15(b)—Record-of-Rights—Shree Jagannath Temple Property—Ekharajat Mahal—Validity of Long-term Lease—Section 58 of the Orissa Hindu Religious Endowments Act, 1939—Prior Sanction of Commissioner of Endowments—Orissa Estates Abolition Act, 1951—Section 8—Raiyati Rights—Shree Jagannath Temple Act, 1954—Correction of Record-of-Rights—Validity of Settlement Entry.

Held: The revision petition was **allowed**. The Hal ROR recording the disputed land in favour of the predecessor of the opposite parties was held legally unsustainable as it was founded upon a **40-year lease dated 15.09.1951** executed by the Temple Superintendent without proof of the mandatory prior sanction under **Section 58 of the Orissa Hindu Religious Endowments Act, 1939**. Mere registration of the lease could not validate a transaction prohibited by statute. The opposite parties also failed to establish that their predecessor was a **raiyat entitled to protection under Section 8(1) of the O.E.A. Act, 1951**. In view of the special statutory protection accorded to the properties of Lord Jagannath, the long-standing settlement entry could not confer lawful title. Accordingly, the **Tahasildar, Jatni was directed to correct the Hal ROR and record the name of Shree Jagannath Mahaprabhu Bije, Puri Marfat Temple Managing Committee, Puri, in Anabadi status with Puratan Patita kisam**

DECISION

1. This Revision Petition under Section 15(b) of the Orissa Survey and Settlement Act, 1958 has been filed by the petitioner Shree Jagannath Mahaprabhu Bije, Puri Marfat Shree Jagannath Temple Managing Committee, Puri, seeking correction of the finally published Record-of-Rights in respect of Hal Khata No. 1401 of Mouza-Kudiary under Jatni Tahasil corresponding to Sabik Khata No. 1085.

Land Schedule

Mouza- Kudiary, P.S.- Jatni, Tahasil- Jatni, District- Khurda.

Sabik Khata No.	Sabik Plot No.	Area	Kisam	Name of tenant
1085	371378379	Ac.30.54 dec Ac.43.75 dec Ac.29.25 dec	"Puratan Patita" "Puratan Patita" "Puratan Patita"	Sri Jagannath Mahaprabhu Marfat Superintendent Raja Sri Ramchandra Dev

The above Sabik suit land corresponding to following Hal Khata:-

Hal Khata No.	Hal Plot No.	Area	Kisam	Name of tenant
1401	733 819 820 821	Ac.16.460 dec Ac.0.020 dec Ac.26.480 dec Ac.0.060 dec	"Puratan Patita" "Ghara" "Puratan Patita" "Ghara"	Gopabandhu Glass & Pottery Works Ltd., Represented through Nilamani Dubey

2. The petitioner seeks deletion of the names of the predecessors of Opposite Parties Nos.1 to 5 from the Hal Record-of-Rights and consequential recording of the disputed properties in favour of Shree Jagannath Mahaprabhu Bije Puri represented through the Temple Managing Committee on the plea that the lease granted in favour of Nilamani Dubey and the alleged industrial concern was void ab initio and consequently the Record-of-Rights prepared on the basis of such lease is liable to be declared illegal and corrected.

3. The records reveal that the present revision was originally registered as R.P. Case No.310 of 2014 and subsequently renumbered as OSS Case No.2020 of 2016. The matter was earlier disposed of by Board of Revenue, order dated 02.08.2016

wherein the revision petition was allowed ex-parte and directions were issued to correct the Hal Record-of-Rights in favour of the petitioner. The said order was assailed before the Hon'ble High Court of Orissa in W.P.(C) No.4541 of 2017 by the legal representatives of late Nilamani Dubey mainly on the ground that no effective notice had been served upon them before disposal of the revision.

4. After examining the original records of this Board, the Hon'ble High Court found that although copies of notices were available on record, there was no material establishing that the notices had actually been dispatched through registered post so as to attract the statutory presumption under Section 27 of the General Clauses Act, 1897. Consequently, the Hon'ble High Court, by order dated 20.02.2025, set aside the earlier order dated 02.08.2016 solely on the ground of violation of principles of natural justice and remitted the matter to this Board for fresh adjudication after giving adequate opportunity of hearing to all the parties.

5. Accordingly, after remand, both parties entered appearance through their respective learned counsel. Written notes of submissions, documentary evidence and subsequent reports called for from the Tahasildar, Jatni were also received and taken on record. It is therefore evident that the present adjudication is not an appeal against the earlier order but is a fresh decision on merits pursuant to the remand made by the Hon'ble High Court.

6. The petitioner has pleaded that Sabik Khata No.1085 formed part of the Ekharajat Mahal of Lord Jagannath Mahaprabhu and stood recorded in the Sabik Settlement in the name of Shri Jagannath Mahaprabhu Marfat Superintendent Raja Rama Chandra Deb in Anabadi status. It is asserted that the said property constituted a specific endowment of Lord Jagannath and, therefore, Raja Rama Chandra Deb acted only as Superintendent or Manager without possessing any proprietary authority to alienate the endowed property. The petitioner has further pleaded that after enforcement of the Orissa Hindu Religious Endowments Act, 1939, every lease exceeding five years required previous sanction of the Commissioner of Endowments under Section 58 of the said Act. According to the petitioner, despite the statutory prohibition, a lease for forty years came to be executed in favour of Nilamani Dubey representing Gopabandhu Glass and Pottery Works Ltd./Utkal Chemical and Oil Industries Ltd. without obtaining sanction of the Commissioner of Endowments.

It is further pleaded that:

a. the alleged industries never came into existence;

b. no industrial establishment was ever set up over the suit land;

c. the nature of the land remained Puratan Patita even during Hal Settlement;

d. no rent receipts were ever produced;

e. possession was never delivered to the lessee; and

f. consequently, the Hal Record-of-Rights prepared in 1965 was wholly illegal.

7. The petitioner has relied heavily upon the judgment of the Hon'ble Supreme Court in Shri Jagannath Temple Managing Committee versus Siddha Math and connected matters to contend that properties vested under Sections 5 and 30 of the Shri Jagannath Temple Act, cannot be divested under the provisions of the Orissa Estates Abolition Act. On such premises, correction of the Record-of-Rights has been prayed for.

8. Upon remand, Opposite Parties Nos.1 to 5 filed written objection opposing the revision. Their principal defence may be summarized as follows:

Firstly, it is contended that the lease dated 08.01.1948 was legally executed by the then Superintendent of Shri Jagannath Temple and possession of the disputed land was duly delivered to late Nilamani Dubey.

Secondly, it is asserted that Ekharajat Mahal is fundamentally different from the specific endowed properties known as Amruta Manohi and that the petitioner has wrongly equated the two.

Thirdly, according to the opposite parties, the Ekharajat Estate represented an intermediary interest transferred in favour of the Raja Superintendent under historical grants of 1858 and 1863 and the rights of the Raiyats remained unaffected.

9. It is also argued that after enactment of the Shri Jagannath Temple Act, 1954, only the intermediary interest stood transferred to the Temple Managing Committee whereas the tenancy rights of recorded Raiyats continued uninterrupted. The opposite parties have further contended that upon vesting of the estate under the Orissa Estates Abolition Act with effect from 18.03.1974, compensation was claimed and accepted by the Temple Managing Committee on the basis of the 1965 settlement records, thereby recognising the recorded tenants. Reference has also been made to departmental correspondence of the Revenue and Disaster Management Department, legal opinion of the Law Department and recommendations of the Seven Member Committee to contend that Ekharajat lands cannot automatically be treated as Amruta Manohi properties and that the rights of recorded Raiyats have been recognised by the State Government after vesting. The opposite parties have therefore prayed for dismissal of the revision petition.

10. During the pendency of the proceedings after remand, this Court considered it appropriate to ascertain the present factual position of the suit land. Accordingly, a report was called for from the Tahasildar, Jatni. The Tahasildar, by Letter No.8907 dated 10.06.2026, reported that Hal Plots No .733, 819, 820 and 821 under Hal Khata No. 1401 is lying vacant. He has also indicated that the present Record-of-Rights reflects Sri Jagannath Mahaprabhu Bije Puri in the recorded tenant column and Odisha Sarkar in Khewat No.1, while noting that the disputed plots are vacant. This report has been brought on record and has been duly considered while appreciating the rival contentions.

11. Having heard the learned counsel appearing for the petitioner and the learned counsel representing Opposite Parties Nos.1 to 5 at considerable length, having perused the pleadings, written notes of submission, documentary evidence produced by both sides, the report submitted by the Tahasildar, Jatni pursuant to the direction of this Court, the records received from the Settlement Authorities and the previous records of this revision, the following points arise for determination:

I. Whether the present revision petition under Section 15(b) of the Orissa Survey and Settlement Act, 1958 is maintainable in law?

II. Whether the Hal Record-of-Rights prepared in the name of Nilamani Dubey/ alleged industrial concern was prepared on the basis of a valid and lawful lease?

III. Whether the disputed lands constituted the specific endowment of Lord Jagannath Mahaprabhu forming part of the Ekharajat Mahal?

IV. Whether the lease executed in favour of Nilamani Dubey was legally sustainable in absence of previous sanction of the Commissioner of Endowments under Section 58 of the Orissa Hindu Religious Endowments Act, 1939?

V. Whether the Hal Record-of-Rights prepared during the Settlement Operation of 1965 is liable to be revised in exercise of revisional jurisdiction of this Court?

VI. To what relief, if any, are the parties entitled?

The above issues are interlinked and, therefore, they are discussed together wherever necessary.

12. The petitioner asserts that lands belonging to a public religious institution of immense public importance have been illegally recorded in favour of private persons on the basis of a void transaction. If such allegation ultimately succeeds, the illegality cannot be allowed to perpetuate merely because considerable time has elapsed. It is equally settled that an entry in the Record-of-Rights neither creates nor extinguishes title. It is only presumptive evidence of possession unless rebutted by cogent evidence. Therefore, if the very foundation of the entry is shown to be illegal, this Court possesses ample jurisdiction to examine the legality of such entry. Accordingly, the objection regarding maintainability deserves to be rejected.

13. The pleadings disclose that there is no dispute regarding the identity of the lands. There is also serious dispute regarding the existence of the lease deed executed in favour of Nilamani Dubey representing the alleged industrial concern. The real controversy centres around the legality of such lease and its effect upon the subsequent settlement records.

The petitioner contends that:-

- The lease itself is void;

- No sanction of the commissioner of endowments was obtained;
- The industries never existed;
- Possession was never delivered;
- The lands continued as puratan patita; and
- Consequently the settlement entry is liable to be corrected.
- The opposite parties, on the other hand, assert:-
- That the lease was validly executed;
- That possession had been delivered;
- That ekharajat mahal was distinct from amruta manohi;
- That only intermediary rights vested in the temple;
- That tenancy rights remained unaffected;
- And that after vesting under the O.E.A. act, the state itself recognised the recorded tenants.

14. The petitioner has relied upon several documents. Among them, the principal documents are:

a. Sabik Settlement Record showing recording of Sabik Khata No.1085 in the name of Lord Jagannath Mahaprabhu through Raja Superintendent.

b. Previous orders passed by this Board of Revenue.

15. The petitioner has also relied upon the fact that the kisam of substantial portions of the land continued to remain **Puratan Patita**, which according to it, clearly

indicates that the purpose for which the lease was granted was never implemented. It is argued that had industries actually been established, the classification of land would necessarily have undergone change during settlement operations.

16. Another important aspect requiring consideration is the evidentiary value of the Record-of-Rights. It is well settled that an entry in the Record-of-Rights carries only a rebuttable presumption of correctness. Such presumption is not absolute. Where it is shown that the entry has been prepared on the basis of an illegal transaction or under a mistaken understanding of law, the competent authority exercising revisional jurisdiction is fully empowered to direct correction of such entry.

17. Conversely, the mere fact that the entry has remained unchallenged for a considerable period does not automatically confer title upon the recorded tenant if the very source of such entry is demonstrated to be legally unsustainable. Therefore, while examining the correctness of the Hal Record-of-Rights, this Court must necessarily examine the legality of the underlying lease transaction, the statutory powers of the Superintendent of the Temple, the effect of the provisions of the Orissa Hindu Religious Endowments Act, 1939, the Shri Jagannath Temple Act, 1954 and the subsequent pronouncements of the Hon'ble Supreme Court. These aspects form the core of the present controversy and are accordingly taken up for detailed consideration in the succeeding part of this judgment.

18. The principal controversy in the present revision centres around the legal validity of the registered lease deed dated 08.01.1948, executed by the then Superintendent of Shri Jagannath Temple in favour of late Nilamani Dubey, described therein as the Director and Managing Agent of Gopabandhu Glass & Pottery Work Ltd. The petitioner has assailed the said lease as being void ab initio, whereas the opposite parties have strongly defended its legality and have asserted that the settlement authorities rightly acted upon the same while preparing the Hal Record-of-Rights.

19. This Court has carefully examined the pleadings, the written submissions, the certified copy of the registered lease deed relied upon by the parties and the surrounding circumstances appearing from the records. It is not in dispute that the lease purported to grant possession of a substantial extent of land for a period of

forty years for establishment of an industrial undertaking. The deed further contemplated renewal at the instance of the lessee subject to the terms incorporated therein. Thus, the lease was not an ordinary short-term agricultural lease but a long-term transfer creating valuable possessory rights over immovable property belonging to the Temple institution. The crucial question is whether the then Superintendent possessed the legal authority to execute such a lease without complying with the statutory requirements prevailing at the relevant time.

20. The petitioner has consistently pleaded that Raja Rama Chandra Deb functioned merely as the Superintendent or Manager of the Temple and was never the absolute owner of the endowed properties. According to the petitioner, he acted only in a representative capacity on behalf of Lord Jagannath Mahaprabhu and consequently could not alienate endowed property except in accordance with law. The opposite parties, on the other hand, have argued that the Ekharajat Mahal constituted a distinct intermediary estate and that the Superintendent exercised powers akin to those of a landholder. They have relied upon historical deeds of 1858 and 1863 to contend that the intermediary interest vested in the Raja Superintendent, enabling him to create leases in respect of the estate. This Court is unable to accept such contention in its broad form.

21. Even if it is assumed that the Superintendent enjoyed intermediary rights over the Ekharajat Estate, those rights were not personal or proprietary in nature. The historical documents relied upon by the opposite parties themselves indicates that the rights were held for and on behalf of the institution. The Superintendent was never free to deal with the endowed properties as his private estate. His authority was fiduciary, circumscribed by the objects of the endowment and subject to the law governing public religious institutions. The distinction between ownership and management is fundamental. A manager or superintendent may administer property, collect rents and protect the estate, but such powers cannot be equated with an unrestricted right to alienate endowed property. Accordingly, the competence of the Superintendent to execute the lease must necessarily be tested with reference to the statutory law in force on the date of execution.

22. That, the lease was executed on 15.09.1951. By that date, the Orissa Hindu Religious Endowments Act, 1939 had already come into force. The said enactment

was intended to regulate the administration of Hindu religious institutions and to ensure protection of their immovable properties against unauthorized alienation. The Legislature consciously imposed restrictions upon trustees, managers and persons in management of temples because experience had shown that valuable religious properties were often being alienated without adequate safeguards. The statutory object was therefore two-fold:

- to preserve endowed properties for the benefit of the deity and the institution; and

- to ensure that any transfer of such property takes place only after independent scrutiny by the statutory authority entrusted with supervision over religious endowments.

23. The powers of a manager after commencement of the Act, were therefore no longer governed solely by traditional customs or historical practice. They became subject to the mandatory provisions enacted by the Legislature.

24. Section 58 of the Orissa Hindu Religious Endowments Act, 1939, which governed the field at the relevant time, reads in substance that: No exchange, sale, mortgage or lease for a term exceeding five years of any immovable property belonging to a Math, Temple or specific endowment shall be valid unless such transaction is necessary or beneficial to the institution and is sanctioned by the Commissioner together with the officers specified under the Act. A plain reading of the provision leaves little room for doubt. The Legislature has employed the expression “shall be valid”. Such phraseology is of considerable legal significance.

25. It does not merely prescribe a procedural formality. Rather, it declares that unless the statutory conditions are fulfilled, the alienation itself lacks legal validity. Thus, two conditions become indispensable before a lease exceeding five years can acquire legal force:

- First, the competent authority must be satisfied that the proposed alienation is necessary or beneficial to the institution.

- Secondly, prior sanction of the Commissioner of Endowments in accordance with the Act must be obtained.

Both conditions are cumulative. Absence of either condition renders the transaction vulnerable.

26. The burden of proving validity of the lease necessarily rests upon the parties relying upon it. In the present case, despite detailed written submissions and production of several historical documents, the opposite parties have not produced any order of sanction granted by the Commissioner of Endowments under Section 58. The registered lease deed itself does not refer to any such sanction. No proceedings before the Commissioner have been brought on record. No notification, approval order or correspondence has been produced to show that the proposal was ever placed before the competent statutory authority. Equally significant is the fact that no explanation has been offered as to why such approval, if obtained, is unavailable despite reliance upon the lease for more than six decades. The absence of the sanction order is not a mere evidentiary deficiency. It strikes at the very root of the transaction because the statute itself predicates validity upon such approval.

27. Learned counsel for the opposite parties has emphasized that the lease is a registered document and therefore enjoys a presumption of genuineness. The submission, though attractive at first blush, cannot be accepted. Registration under the Registration Act authenticates execution of an instrument. It does not validate a transaction prohibited by another statute. A document may be perfectly genuine in the sense that it was executed and registered by the parties, yet the rights purportedly created thereunder may still be unenforceable if the substantive law forbids such transaction. To illustrate, if a statute prohibits transfer without previous governmental approval, registration of the deed cannot substitute for the approval itself. The same principle applies in the present case. Consequently, mere registration of the lease deed dated 15.09.1951 cannot dispense with the mandatory requirement of obtaining sanction under Section 58 of the Orissa Hindu Religious Endowments Act, 1939.

28. That, section 58 does not stop with requiring sanction. It also insists that the alienation must be necessary or beneficial to the institution. The object behind this requirement is self-evident. A manager is merely a custodian. He cannot sacrifice long-term institutional interests for speculative or uncertain advantages. The lease

in question was executed for establishment of an industrial undertaking. However, except the recital contained in the lease deed itself, no convincing material has been placed before this Court to establish:

- that any factory was actually established;
- that industrial production ever commenced;
- that employment was generated;
- that the Temple derived any financial advantage from such lease;
- that royalty or rent was regularly realized;
- or that the purpose for which the lease was granted was substantially fulfilled.

29. On the contrary, the petitioner has consistently asserted that no industry ever came into existence and that the lands substantially continued in their original condition. The recent field enquiry report submitted by the Tahasildar, Jatni, also indicates that the disputed lands are vacant. Although the report reflects the present status and cannot by itself determine historical possession, it lends some support to the petitioner's contention that the lands were not developed for the industrial purpose contemplated by the lease.

30. Once it is found that no material has been produced demonstrating prior sanction under Section 58, the inevitable consequence is that the Court must examine whether the lease could legally form the basis of settlement entries prepared in 1965. The law is well settled that where the very source of title is shown to be void, subsequent entries founded exclusively upon such source cannot enjoy an independent legal existence. A Record-of-Rights prepared during settlement proceedings carries a presumption of correctness. However, such presumption is rebuttable.

31. Where it is demonstrated that the settlement authorities acted upon a transaction which itself lacked statutory validity, the presumption attached to the

Record-of-Rights stands substantially weakened and the revisional authority is competent to examine its legality. Accordingly, this Court is of the prima facie view that the validity of the Hal Record-of-Rights cannot be examined in isolation from the legality of the lease deed dated 15.09.1951. The two are intrinsically connected.

32. The conclusions recorded above are confined to the legal effect of the registered lease deed vis-à-vis Section 58 of the Orissa Hindu Religious Endowments Act, 1939. The controversy, however, does not end there.

33. It is still necessary to consider the impact of the Shri Jagannath Temple Act, 1954, the legal status of the Temple Managing Committee after vesting of management, the effect of the pronouncement of the Hon'ble Supreme Court in *Shri Jagannath Temple Managing Committee v. Siddha Math & Others*, the objections founded upon the Orissa Estates Abolition Act, 1951, and the significance of the compensation allegedly received by the Temple authorities. These questions, being closely interconnected, shall be examined in the succeeding part of this judgment before recording the final findings on the legality of the Hal Record-of-Rights and the relief to which the parties are entitled.

(Effect of the Shri Jagannath Temple Act, 1954, Discussion of the Judgment of the Hon'ble Supreme Court and Commencement of Findings)

34. Having examined the legality of the registered lease deed dated 15.09.1951 in the light of Section 58 of the Orissa Hindu Religious Endowments Act, 1939, it now becomes necessary to examine the effect of the Shri Jagannath Temple Act, 1954 (hereinafter referred to as "the Temple Act"), which came into force long prior to the final publication of the Hal Record-of-Rights in the year 1965. The Temple Act is a special legislation enacted by the Legislature with the avowed object of ensuring proper administration, governance and preservation of the Shri Jagannath Temple at Puri together with its endowed properties. The Act superseded the earlier system of management under the hereditary Superintendent and vested the administration and management of the Endowments of lord Jagannath in Shree Jagannath Temple Managing Committee.

35. The legislative intention is evident from the scheme of the Act itself. The Legislature intended that all properties appertaining to the Temple and all endowments attached thereto should thereafter be managed only by the statutory authorities constituted under the Act, thereby ensuring transparency, accountability and protection of the institution. The significance of this legislation in the present case is that by the time the Hal Record-of-Rights came to be prepared and finally published in the year 1965, the management of the Temple had already vested in the Temple Managing Committee. Consequently, the Settlement Authorities were expected to examine the legal status of the property in the light of the provisions of the Temple Act before recognising any competing claim based upon an earlier lease. The record available before this Court does not indicate that any notice was issued to the statutory Temple Administration during the settlement proceedings or that the authorities examined whether the lease relied upon by the recorded tenant had been executed in conformity with the provisions of the Orissa Hindu Religious Endowments Act, 1939 or whether the Temple Act had any bearing upon the rights claimed under the lease. The omission to examine these foundational issues assumes considerable significance while evaluating the correctness of the settlement entries.

36. The law relating to public religious endowments recognises a fundamental distinction between private ownership and management of endowed property. The deity in a public temple is recognised as a juristic person. The endowed properties belong to the deity and not to the manager or trustee. The manager, superintendent or administrator merely acts as a custodian or guardian charged with the responsibility of preserving the properties for the benefit of the institution and for fulfillment of the religious purposes for which the endowment was created. It necessarily follows that no manager, irrespective of the nomenclature assigned to him, can claim unrestricted proprietary powers over the endowed estate. His authority remains subject to statutory restrictions imposed by law.

37. The petitioner has specifically pleaded that Raja Rama Chandra Deb functioned merely as Superintendent and had no independent proprietary right enabling him to alienate endowed properties without complying with statutory requirements. This contention is consistent with the settled principles governing administration of public religious institutions. The opposite parties have sought to distinguish the intermediary interest of the Ekharajat Estate from the Temple

endowment and have argued that the Superintendent possessed wider powers over such estate. However, even if such distinction is accepted for the sake of argument, the exercise of those powers after commencement of the Orissa Hindu Religious Endowments Act could not be divorced from the statutory restrictions imposed upon alienation of temple properties.

38. A substantial part of the defence advanced by Opposite Parties Nos.1 to 5 rests upon the proposition that Ekharajat Mahal and Amruta Manohi constitute two separate categories of properties and that the petitioner has erroneously treated them as one and the same. The written submissions refer to historical deeds executed in the years 1858 and 1863, the Puri Gazetteer, departmental opinions and subsequent governmental correspondence in support of such contention. This Court has carefully considered the said submissions. There can be no quarrel with the proposition that the historical origin and incidents of Ekharajat Mahal have been discussed in various judicial and administrative proceedings.

39. However, the present revision does not require this Court to pronounce finally upon the entire historical character of the Ekharajat Estate. The question falling for determination is considerably narrower, namely whether the settlement entry in favour of the predecessor of the opposite parties could legally survive if its foundation, namely the lease dated 15.09.1951, is found to be contrary to the mandatory provisions of the law governing alienation of temple properties. Even assuming that the Ekharajat Estate possessed features distinct from Amruta Manohi properties, that circumstance alone cannot dispense with the statutory requirement of obtaining sanction under Section 58 of the Orissa Hindu Religious Endowments Act if the property was held by the Superintendent in his representative capacity for the institution. Thus, the distinction sought to be drawn by the opposite parties, though historically relevant, does not by itself answer the principal legal issue involved in the present revision.

40. The petitioner has placed considerable reliance upon the judgment of the Hon'ble Supreme Court rendered on 16.12.2015 in *Shri Jagannath Temple Managing Committee v. Siddha Math & Others* and connected Civil Appeals. The previous order passed by this Board on 02.08.2016 had also relied extensively upon the said decision. The opposite parties have, however, contended that the said judgment

arose in a different factual background relating to disputes involving Maths and therefore has no application to the present controversy. This Court has carefully examined the rival submissions. It is true that the precise factual matrix before the Hon'ble Supreme Court differed from the present case. Nevertheless, the principles enunciated by the Hon'ble Apex Court regarding the nature of the Temple Act, the supremacy of the special enactment governing the Temple and the necessity of protecting temple properties possess binding precedential value.

41. The Hon'ble Supreme Court observed that once the Temple properties had vested in the statutory Temple Committee under the provisions of the Temple Act, the same could not be divested by application of inconsistent provisions under the Orissa Estates Abolition Act. The Court further emphasised that the Temple Act constitutes a special legislation enacted exclusively for administration and protection of the properties of the Temple and that its provisions must receive full effect. The ratio decidendi emerging from the judgment is not confined merely to the disputes involving Maths. The broader legal principle is that statutory authorities dealing with temple properties are obliged to give due effect to the provisions of the Temple Act and cannot ignore the statutory safeguards enacted for preservation of the institution. Accordingly, while the present dispute has to be decided on its own facts, this Court is bound to apply the legal principles declared by the Hon'ble Supreme Court in so far as they govern the administration and protection of temple properties.

42. The petitioner has also relied upon the report submitted by the Tahasildar, Jatani pursuant to the direction of this Court stating therein that the major portion of the disputed lands are vacant. The opposite parties have argued that the present condition of the land is wholly irrelevant for determining rights flowing from a lease executed more than seven decades ago. This Court agrees that the present field enquiry cannot retrospectively establish or negate possession as on the date of execution of the lease.

43. However, the report assumes evidentiary significance in another respect. The lease was admittedly granted for establishment of an industrial undertaking. If, despite the lapse of several decades, the land substantially continues to remain vacant and the opposite parties have failed to produce convincing evidence of establishment or functioning of the proposed industry, the Court is entitled to examine

whether the very purpose for which the long-term lease was granted was ever fulfilled. Such circumstance does not by itself invalidate the lease but undoubtedly constitutes one of the relevant factors while assessing whether the transaction was genuinely beneficial to the institution and whether the settlement authorities were justified in acting upon it.

44. Upon consideration of the pleadings, documentary evidence, statutory provisions and the submissions advanced on behalf of both parties, this Court records the following prima facie conclusions, which shall be elaborated while answering each point for determination:

I. The dispute cannot be decided merely on the basis of the existence of a registered lease deed or long-standing entries in the Record-of-Rights. The legality of the source transaction must first be examined.

II. The provisions of the Orissa Hindu Religious Endowments Act, 1939 governing alienation of temple properties were operative on the date of execution of the lease and compliance therewith was a condition precedent for the validity of any long-term lease.

III. The settlement authorities, while preparing the Hal Record-of-Rights in 1965, do not appear to have undertaken any enquiry regarding compliance with the mandatory statutory requirements or the effect of the Temple Act upon the rights asserted by the parties.

IV. The judgment of the Hon'ble Supreme Court in *Shri Jagannath Temple Managing Committee v. Siddha Math & Others* reinforces the obligation of statutory authorities to protect temple properties and to give due primacy to the provisions of the Shri Jagannath Temple Act while adjudicating disputes relating to such properties.

V. The plea founded upon acceptance of compensation under the Orissa Estates Abolition Act raises an important question requiring consideration but, by itself, does not constitute conclusive proof validating the lease or foreclosing examination of its legality.

45. The above observations are confined to the appreciation of the legal framework and documentary materials. The Court shall now proceed to analyse each point for determination separately, appreciate the evidence in its entirety, evaluate the rival contentions in the light of the applicable statutory provisions and judicial precedents, and record its final findings on the legality of the Hal Record-of-Rights and the reliefs to which the parties are entitled.

46. Since the matter has been remanded by the Hon'ble High Court after affording opportunity of hearing to all concerned, this Court has carefully examined every contention advanced in the written notes of submission filed by Opposite Parties Nos.1 to 5. Unlike the earlier order dated 02.08.2016, the present decision is rendered after considering the pleadings, documents and arguments of both sides. The principal objections raised by the opposite parties may broadly be summarized as follows:

I. That the lease dated 15.09.1951 was legally executed by the then Superintendent;

II. That the Ekharajat Mahal was not a specific endowment but an intermediary estate;

III. That after abolition of intermediary interests, the recorded tenants automatically became Raiyats under the Odisha Land Reforms Act;

IV. That the Temple itself accepted compensation under the Odisha Estate Abolition Act and therefore cannot challenge the settlement entries;

V. That the judgment of the Hon'ble Supreme Court in *Shri Jagannath Temple Managing Committee vs. Siddha Math & Others* is distinguishable;

Each of aforesaid objections deserves independent consideration.

47. The first and foremost defence of the opposite parties is that the registered lease deed dated 15.09.1951 constitutes a valid source of title and possession. The argument cannot be accepted in its entirety. Registration only proves execution of

the document. Registration does not validate a transaction prohibited by statute. As already discussed while dealing with Section 58 of the Orissa Hindu Religious Endowments Act, 1939 every lease exceeding five years required previous statutory sanction. Despite ample opportunity, no sanction order has been produced. Neither the lease deed itself nor any contemporaneous record mentions approval of the Commissioner of Endowments. The burden to establish compliance with the mandatory statutory requirement rested squarely upon the parties relying upon the lease. That burden has not been discharged. Consequently, the lease cannot automatically be treated as a legally enforceable document merely because it was registered.

48. The petitioner further places his reliance in the case of Rangammal Vrs. Kuppuswami and Anr. reported in 2011 (II) OLR (SC)-278 wherein it has been observed that "Burden of proof- whosoever desires any court to give judgment as to any legal right or law dependent on the existence of facts which he asserts, must prove that those facts exist- Burden of proving facts always lies upon the person who asserts- until such burden is discharged, the other party is not required to be called upon to prove his case-Court has to examine as to whether the person upon whom burden lies has been able to discharge his burden-until he arrives at such conclusion, he cannot proceed on the basis of weakness of the other party. Pleading- Party who pleads has also to prove this case".

49. It has next been argued that after commencement of the Odisha Land Reforms Act, the recorded tenants automatically acquired the status of Raiyats under Section 4(1)(a) of the Act. This submission presupposes the legality of the tenancy itself. The doctrine of deemed Raiyati cannot validate a tenancy which itself originated from a transaction contrary to mandatory statutory provisions. If the very foundation of the tenancy is under challenge on the ground that the lease itself was void for want of statutory sanction, the subsequent operation of the OLR Act cannot cure the initial defect. A statutory consequence can arise only from a legally recognised tenancy. Therefore, before the provisions of the OLR Act are attracted, the Court must first satisfy itself regarding the legality of the lease itself. Since that question is answered against the opposite parties, the plea of automatic Raiyati rights cannot by itself defeat the present revision.

50. It is submitted by the learned Advocate appearing for the petitioner that only the person who is a raiyat under the intermediary is entitled to be protected U/s 8(1) of OEA Act, 1951. In support of his submission, he places his reliance on a decision of our Hon'ble Apex Court in the case of State of Orissa and Ors Vrs Harapriya Bisoi reported in 2009 (II) OLR SC 229. On careful perusal of the aforesaid decision, it is clear that it has been held by our Hon'ble Apex Court in para-19 that "By virtue of Section8, any person who immediately before the vesting of an estate in the State Government was in possession of any holding as a tenant under an intermediary, would on the from the date of the vesting, be deemed to be a tenant of the State Government. The words "holding as a tenant" means the "Raiyat" and not any other class of tenant. Reference in this regard may be drawn to the definition of "holding" in the Orissa Tenancy Act, 1913. "Holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy".

51. It has been further observed that Section 8 thus confers protection only on the "Raiyat" i.e., the actual tiller of the soil. Significantly, a "lease and lessee" on the one hand are defined separately from the "Raiyat" under the Act. Thus, the mere claim of the Opp. Parties as tenant/Rayat in favour of a person would not confer the status of a "raiyat" on the successor of recorded person in Settlement record of rights nor would protect the possession of such successor under Section 8. In fact, a "lease" would amount to a transfer of an interest of the intermediary in the land to the recorded person. In such a situation, far from being a tenant protected under Section 8, the recorded person in the record of rights would in fact step into the shoes of his predecessor. On the other hand, for protection under Section 8, one has to be a Raiyat cultivating the land directly and having the rights of occupancy under the tenancy laws of the State. Thus, the Opp. Parties or his predecessor who is not a "raiyat" would not be within the protection of Section 8 of the Act.

52. The decisions of the Hon'ble Apex Court cited supra by the learned Advocate for the Petitioner squarely go to show and to lay down the law that in order to get the protection of Section-8(1) of O.E.A. Act, 1951, the person seeking the benefit has to establish that he was a raiyat i.e., the actual tiller of the soil. So, in view of the specific observation by the Hon'ble Apex Court in the decision cited supra, the case of the Opp.Parties is to be tested in the touchstone and on the anvil of the ratio enunciated by the Hon'ble Apex Court and it is to be seen in the case at hand as to

whether the Opp.Parties predecessor Nilamani Dubey was the tiller of the suit land and was actually in physical possession of the suit land and cultivating the same as Raiyat. Though it has been specifically claimed on behalf of the Opp.Parties that after abolition of intermediary interest as per the provisions of OEA Act, 1951 the Opp.Parties became deemed Rayat under the State and after vesting he is continuing as raiyat under the State but the same is without any basis or documentary evidence and cannot be accepted with a pinch of salt.

53. The learned advocate appearing for the Petitioner further submitted that "Registration Act, 1908, section-17 Transfer of Property Act, 1982, sections 105 & 107- A tenant only can be recognized under Section 8(1) of the O.E.A. Act if the intermediary has validly inducted with registered document as per Section 17 of the India Registration Act, sections 105 & 107 of the Transfer of Property Act and followed by ekpadia submitted by the intermediary with the approval of the Board of Revenue under section 5 of the O.E.A. Act".

54. Here in the case at hand, there is no pleading that the Opp. Parties predecessor Nilamani Dubey was inducted as tenant in respect of the suit land by the petitioner who was the intermediary in the manner as discussed above. So, by no stretch of imagination, it can be said that the Opp. Parties said predecessor was inducted as tenant in respect of the suit land by the intermediary who is the petitioner in this case prior to abolition of intermediary estate on the date of vesting of the intermediary interest with the State Government, Nilamani Dubey was in possession of the suit land was cultivating same as actually tiller for which he is entitled to be protected U/s 8(1) of OEA Act, 1951.

55. It is apt to mention here that in the decision of Hon'ble Apex Court in the case of Sri Jagannath Temple Managing Committee Vrs. Sidha Math & others reported in 2016 (I) OLR (SC) -209 wherein it has been observed that "Art.142- Court can pass an order for doing complete justice-Finding that the rights conferred under Sri Jagannath Temple Act are taken away by the first part of the proviso to Sec.2 (00) of the O.E.A. Act, 1951, the same is struck down and the notification issued by the Government dated 18.03.1974 is quashed so far as it relates to the property of Lord Jagannath. Notification dated 18.03.1974- First part of the proviso that which deals with all estates belonging to the temple of Lord Jagannath at puri within the meaning

of Sri Jagannath Temple Act, 1955 as trust estate being struck down, notification dated 18.03.1974 issued by the Government U/s 3-A on the basis thereof is quashed by the court with prospective effect in so far as the judgment shall not be applicable to the claims already settled under the OEA Act, 1951 pertaining to the lands of Lord Jagannath- Impugned judgment [2009 (Supp-II) OLR 238] is set-aside".

56. It has also been observed in the said decision that "In the instant case, great injustice will be caused to the appellant Temple if the rights conferred upon it by the Temple Act are allowed to be taken away by operation of the provision to Section 2 (00) of the OEA Act. Therefore, we have to strike down the provision to Section 2 (00) of the OEA Act and also quash the notification dated 18.03.1974 in so far as it relates to the property of Lord Jagannath Temple, Puri. Thus, the notification dated 18.03.1974 issued by the State Government under Section 3-A of the OEA Act, 1951, whereby the estate of Lord Jagannath Mahaprabhu Bije, Puri vested in the State Government (in terms of Point (ii) of the notification), is liable to be quashed to that extent".

57. It has further been observed that "Since we have categorically recorded the finding both on facts and in law while answering Point No.1 in favour of the appellant Temple Committee holding that the provisions of the OEA Act, 1951 have no application to the lands of the Lord Jagannath Temple, At- Puri, there is no need for us to pass an order in favour of the Temple under the OEA Act, 1951 as the suit lands were already vested in favour of the Lord Jagannath Temple, At- Puri by virtue of the proviso of the Temple Act, 1955".

From the above observations of the Hon'ble Apex Court in the decisions cited supra by the learned advocate appearing for the petitioner it is evidently and abundantly clear that the provisions of OEA Act, 1951 will not be applicable to the property of Lord Jagannath Mahaprabhu Bije, Puri. So, the suit land exclusively belonging to Lord Jagannath Mahaprabhu Bije, Puri and Opp.Parties cannot claim any protections on the basis of provisions of O.E.A. Act, 1951.

58. It is relevant to mention here that to provide proper Administration of the Puri Shree Jagannath Temple preventing mismanagement of the Temple and its

Endowments by consolidation of the rights and duties of Sevaks, Pujaris and such other persons connected with the Seva, Puja and Management thereof, a special Act by name The Puri Shri Jagannath (Administration) Act, 1952 is enacted and came into force in 1952. I have perused the said act wherein Endowment has been clearly defined as follows:

- As per section-5 of 1952 Shree Jagannath Temple Act, "Endowment" means all property belonging to or given or endowed for the support of the Temple or given or endowed for the performance of any service including the service of offering to the deity or charity connected therewith and include gifts of property made as personal gifts to the sevak, Pujaries or other employees of the Temple".

- As per Sec. 4 of the said Act, the Special Officer was appointed U/s 3 to prepare the R.O.R. of Shree Jagannath Temple, Puri for smooth management of Temple and its endowments. The R.O.R. of Temple is published U/s 5 of the said Act including the land under Ekharajat Mahal.

- In Section 6 of the said Act, it is provided that any person aggrieved by any entry in the record published in the Temple R.O.R. may file objections before the District Judge, Puri within the stipulated period. If no objection is filed the R.O.R. published is conclusive and final.

59. In the case at hand the present Opp.Parties have not challenged the publication of R.O.R. relating to Ekharajat Mahal properties which is an endowment of Shree Jagannath Mahaprabhu Bije, Puri. Therefore, to challenge now that Ekharajat Mahal properties is the personal properties of the Opp.Parties on the basis of said void lease deed have got the lawful title over the properties prior to 1955 by way of transfer from the then Raja of Puri or after 1955 by the Temple Managing Committee is nonest in the eye of law.

60. Much emphasis has been laid upon the fact that compensation was allegedly claimed and received by the Temple authorities after vesting of the estate under the Odisha Estates Abolition Act. The argument is that acceptance of compensation amounts to recognition of the tenancy rights of Nilamani Dubey. The contention is not acceptable. Proceedings for payment of compensation under the OEA Act are

entirely distinct from adjudication of title under the Survey and Settlement Act. Compensation proceedings merely determine the amount payable consequent upon vesting. They do not constitute a judicial declaration validating every tenancy reflected in settlement records. The opposite parties have failed to produce any order passed under the OEA Act wherein the legality of the lease dated 15.09.1951 was adjudicated upon. Similarly, no finding has been produced demonstrating that the competent authority specifically upheld the validity of the impugned lease after examining Section 58 of the Orissa Hindu Religious Endowments Act, 1939. Therefore, mere receipt of compensation cannot operate as estoppel against statutory correction of an erroneous Record-of-Rights.

61. The opposite parties have submitted that the settlement entries have remained in existence for several decades and therefore deserve a presumption of correctness. There is no dispute regarding the legal presumption attached to a finally published Record-of-Rights. However, such presumption is rebuttable. The revisional jurisdiction conferred under the Orissa Survey and Settlement Act exists precisely to correct entries which are shown to have been prepared illegally or on the basis of mistaken assumptions. Where the very foundation of the entry is questioned on the ground that it rests upon an invalid alienation of endowed property, the Court is fully competent to examine its legality. Long continuance of an illegal entry cannot convert it into a lawful one.

62. The petitioner relied decision reported in 2012 Vol-I OJR- 275 in a case of Deben Sethi vs State of Orissa and others their lordship of our own High Court have held as follows:

> "Debottar property- Jagannath Temple property- Land belonging to the deity which is a juristic perpetual minor/and disabled person cannot be subject to alienation in violation of statutory requirement- It requires protection- If any person claims to have acquired any kind of right in the property belonging to the deity, the transaction is required to be ignored being illegal and the deity becomes entitled to recover the possession as well as the right, title and interest in the property- Right, title and interest over the land/property belonging to Lord Jagannath always vests with the deity".

63. After considering the pleadings, documentary evidence, statutory provisions and rival submissions, this Court finds the petitioner's case to be more probable and legally sustainable for the following reasons:

- Firstly, the petitioner has successfully established that the lease exceeded five years and therefore attracted Section 58 of the Orissa Hindu Religious Endowments Act.
- Secondly, the opposite parties have failed to establish prior statutory sanction.
- Thirdly, there is no satisfactory evidence demonstrating that the industrial purpose contemplated under the lease was ever fulfilled.
- Fourthly, the present enquiry conducted by the Revenue Authorities substantially supports the petitioner's case regarding the vacant nature of the lands.
- Fifthly, the settlement authorities appear to have acted upon the lease without examining compliance with mandatory statutory provisions.
- Lastly, the legal principles laid down by the Hon'ble Supreme Court regarding protection of temple properties reinforce the necessity of strict scrutiny before recognising alienations affecting religious endowments.

Taken together, these circumstances create a compelling case for interference with the settlement entries.

64. For all the reasons discussed above, this Court holds that none of the objections raised by Opposite Parties Nos.1 to 5 are sufficient to sustain the correctness of the impugned Hal Record-of-Rights. The cumulative effect of the statutory provisions, the absence of proof of mandatory sanction under Section 58 of the Orissa Hindu Religious Endowments Act, the evidentiary value of the recent

revenue enquiry, the legal principles governing protection of temple properties, and the independent appreciation of the entire material on record persuades this Court to accept the petitioner's challenge.

65. This Court is satisfied that the Hal Record-of-Rights prepared during the Settlement Operation of 1965 suffers from legal infirmity. The recording in favour of the predecessor of Opposite Parties Nos.1 to 5 rests entirely upon the impugned lease. The statutory requirements governing such alienation have not been proved to have been complied with. The settlement authorities also failed to examine the legal consequences flowing from the enactment of the Shri Jagannath Temple Act. Consequently, the Record-of-Rights, to the extent challenged in the present revision, cannot be permitted to continue.

In result, this Revision Petition stands **allowed**.

66. The Tahasildar, Jatni is directed to-

- Correct the Hal Record-of-Rights in respect of the suit land.
- Record the name of Shree Jagannath Mahaprabhu Bije, Puri Marfat Temple Managing Committee, Puri in the recorded tenants column of the Hal R.O.R of the suit land in Anabadi status, Puratan Patita Kisam.

67. Send a copy of the order to the Tahasildar, Jatni for necessary compliance immediately from the date of receipt of the copy of this order.

68. Original/Certified copy of documents filed be returned to the petitioner by keeping a photo copy of the same in the case record.

Pronounced the order in the open court today, i.e. on the 09th day of July, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Kataka

OSS Revision Case No. 854 of 2022

Decided on 13.08.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Kataka.)

Harihara Panigrahy ..... **Petitioner**

-Versus-

Collector,Khurda & others .....**Opp. Parties**

For the petitioner ... None
For Oposite Party No. 1 &2 ... Mr. S. S. Das, Addl. Standing Counsel

Orissa Survey & Settlement Act, 1958—Section 32—Government Lease—Derivative Title—Section 22 of the OLR Act—Identity Discrepancy—Suspicious Lease Records—"DakhalSatwa Sunya"—Sthitiban Status—Record-of-Rights.

Held: The revision petition was **dismissed**. The Board found that the petitioner failed to establish a lawful and reliable source of title tracing back to the alleged Government lease in favour of Raghu Naik. Serious discrepancies were found in the lease records, including overwriting of the case number, identity mismatch between Raghu Naik and Raghu Bhoi, Scheduled Tribe/Scheduled Caste discrepancy and use of one lease record for approximately 138 persons. The subsequent sale deeds, mutation, possession and revenue entries were held insufficient to establish title. The prayer for recording the land in **Sthitiban status** was rejected, and the records were directed to be preserved and examined by the competent authorities.

DECISION

1. The present revision petition has been filed under Section 32 of the Odisha Survey and Settlement Act, 1958 challenging the order dated 15.07.2013 passed by the learned Assistant Settlement Officer, Rental Colony, Bhubaneswar in Suo Motu Rent Case No.7248/2013 and the consequential appellate order dated 05.09.2013 passed by the learned Additional Sub-Collector-cum-Additional Settlement Officer,

Bhubaneswar in Appeal No.1487/2013, whereby the scheduled land measuring Ac.0.1500 corresponding to Sabik Plot No.1400/1659 under Sabik Khata No.224/165 and presently corresponding to Hal Plot No.1024, Mouza-Sampur, Tahasil-Bhubaneswar, has been directed to be recorded in favour of the General Administration Department, Government of Odisha.

2. The Revision Petitioner claims right, title and interest over the aforesaid land on the strength of a registered sale deed dated 08.01.1985 executed by one Bipra Charan Patra, who is stated to have purchased the larger leasehold area from Raghu Naik alias Raghu Bhoi by registered sale deed dated 03.03.1983. The foundation of the petitioner's claim, therefore, rests upon the alleged original Government lease granted in favour of Raghu Naik in W.L. Case No.1364/59-60 & W.L Case No. 469/59-60 and the subsequent transactions flowing therefrom.

3. I have heard the learned counsel appearing for the Revision Petitioner, learned Additional Standing Counsel for the State and perused the entire records made available, including the original/age-old lease records, reports submitted by the Tahasildar, Bhubaneswar, Revenue Inspector, Sub-Collector, Bhubaneswar, Additional District Magistrate, Bhubaneswar and the General Administration Department, as well as the written notes of submission filed by the parties.

4. The principal question which arises for consideration is:-

Whether the Revision Petitioner has established a lawful and valid source of title tracing back to the Government lease allegedly granted in favour of Raghu Naik in W.L. Case No.1364/59-60 so as to claim a direction for recording the scheduled land in his favour in Sthitiban status, notwithstanding the serious discrepancies and suspicious features noticed in the original lease records and the subsequent transfer documents?

5. A connected question is whether the impugned orders of the Assistant Settlement Officer and the appellate authority call for interference in exercise of revisional jurisdiction under Section 32 of the Odisha Survey and Settlement Act, 1958.

6. The case of the Revision Petitioner is essentially derivative. The petitioner himself is not the original lessee. His alleged title is traced through the following chain:-

Government land '! alleged lease in favour of Raghu Naik '! sale by Raghu Naik/Raghu Bhoi to Bipra Charan Patra on 03.03.1983 '! sale of Ac.0.1500 by Bipra Charan Patra to Harihara Panigrahy on 08.01.1985 '! mutation in favour of the petitioner in 1986.

7. Therefore, unless the first link in the chain, namely, the alleged Government lease in favour of Raghu Naik, is satisfactorily established, the subsequent transactions cannot, by themselves, create an independent title in favour of the petitioner against the State. It is a settled principle that a purchaser can acquire no better title than that possessed by his vendor. Registration of a sale deed or subsequent mutation cannot cure a fundamental defect in the title of the vendor or validate an otherwise void transaction. The mere fact that the petitioner's name was subsequently mutated, rent was accepted, or an entry appeared in a Record-of-Rights cannot, by itself, establish the validity of the original Government grant where the foundational lease itself is under serious and material cloud.

8. The original lease record of W.L. Case No.1364/59-60 has been examined.From the record it appears that one Raghu Naik, son of Dhani Naik, resident of Sampur, belonging to the Scheduled Tribe community, submitted an application dated 09.11.1959 seeking settlement of Government land for agricultural purposes. Consequently, W.L. Case No.1364/59-60 was opened in his name. The last two relevant notings in the said record assume considerable importance. On 01.03.1968, the Tahasildar, Bhubaneswar recorded that the applicant was a poor Adivasi/ Scheduled Tribe person and recommended consideration of waiver of salami, directing that the matter be put up on 05.04.1968. However, there is conspicuous absence of the corresponding proceeding/noting dated 05.04.1968.

9. Thereafter, there appears to be a substantial gap of several years. The record does not disclose a continuous and intelligible chain of proceedings culminating in a valid order of sanction of lease in favour of Raghu Naik in W.L. Case No.1364/59-60. This break in the continuity of the original proceeding is not a mere clerical irregularity.

When the petitioner's entire title is founded upon the alleged Government grant, the original record ought to disclose a clear and legally intelligible progression from application, enquiry, proclamation/objection, eligibility determination, identification of land, competent sanction and final grant. Such continuity is conspicuously absent.

10. The matter becomes more serious when W.L. Case No.469/59-60 is examined. The record of W.L. Case No.469/59-60, as produced before this Court, shows that the applicant in that case is Lokanath Sethi. Thus, on the face of the record, W.L. Case No.469/59-60 was opened in respect of an applicant different from Raghu Naik. However, the record has subsequently been relied upon in support of the alleged lease of Raghu Naik. More importantly, the said single lease case record appears to have been utilised for sanction of leases in favour of a very large number of persons, numbering approximately 138 persons. Such a feature, in the absence of any satisfactory explanation from the competent authority or the production of the relevant case register demonstrating the lawful procedural basis for such clubbing, creates a serious and substantial doubt about the integrity and authenticity of the record. The normal and legally expected course in a Government land settlement proceeding is that the identity of the applicant, description of land, area, plot particulars, eligibility, enquiry, proclamation, objection, recommendation and order of sanction should be traceable from the record. A single lease case bearing the name of one applicant, namely Lokanath Sethi, subsequently containing sanction in favour of a large number of unrelated persons, requires a cogent explanation. No satisfactory explanation has been forthcoming.

11. The beginning portion of the order-sheet of W.L. Case No.469/59-60 also discloses overwriting/tampering in the case number. The original number appears to have been 470, which has subsequently been overwritten/altered to 469. The Sub-Collector, Bhubaneswar, in his report to this Court, has specifically noticed that the case number is overwritten and has described the same as doubtful and requiring further investigation.

12. This Court cannot lightly brush aside such a material circumstance. A Government lease record is not an ordinary private document. It is a public record relating to disposal of Government property. The identity of the case number, continuity of the proceeding and integrity of the order-sheet are matters of fundamental

importance. Where the very case number appears to have been altered, and the record bearing the altered number is subsequently relied upon to connect a different person with a Government grant, the Court must approach the document with the greatest caution. The Court is not required to accept an obviously doubtful public record merely because subsequent mutation or revenue entries have been made on its basis.

13. The petitioner has strongly relied upon the fact that the lease was allegedly granted in the year 1967 and a Patta was issued in 1973. However, the record does not satisfactorily demonstrate a continuous and legally unimpeachable proceeding showing when and by which competent authority the lease was finally sanctioned in favour of Raghu Naik. The existence of a later Patta or a revenue entry cannot substitute for the primary order of lawful settlement when the very source document is under serious doubt. The principle applicable here is that where title is traced to a Government grant, the claimant must establish the grant itself. Subsequent entries based upon a doubtful foundational document cannot improve the quality of the original title.

14. An additional and highly material discrepancy appears from the document relating to permission for transfer under Section 22 of the Odisha Land Reforms Act, 1960. The original lease records consistently describe the alleged lessee as, Raghu Naik, son of Dhani Naik, belonging to Scheduled Tribe/Adivasi community. The mutation and other revenue records also proceed on the basis that the original lessee was Raghu Naik and that he belonged to the Scheduled Tribe community. However, the permission relied upon for the subsequent transfer describes the applicant/transferor as:- Raghu Bhoi, belonging to Scheduled Caste. This is not a minor spelling discrepancy. The distinction between Raghu Naik and Raghu Bhoi, coupled with the different descriptions of Scheduled Tribe and Scheduled Caste, assumes legal significance because Section 22 of the Odisha Land Reforms Act contains specific restrictions governing transfers by members of Scheduled Tribes and extends the statutory protection to Scheduled Caste transfers through sub-section (5). Section 22(1), in relation to a raiyat belonging to a Scheduled Tribe, declares a transfer to a non-Scheduled Tribe person void except in the circumstances specifically recognized by the statute, including transfer with previous written permission of the Revenue Officer, subject to the statutory conditions. Therefore,

the identity and community status of the transferor were not matters of mere formality. They went to the root of the statutory permission. If the original lessee was Raghu Naik, a Scheduled Tribe person, but the permission proceeding proceeded upon the description of Raghu Bhoi as a Scheduled Caste person, the authority granting permission ought to have been satisfied about the identity of the transferor and the statutory provision applicable to him. No satisfactory material has been produced to reconcile this discrepancy.

15. The subsequent correction deed dated 28.10.1983 has been relied upon to assert that Raghu Naik and Raghu Bhoi were one and the same person. This Court is unable to accept that explanation merely on the basis of a self-description contained in a subsequent registered deed. The question is not whether a person may colloquially use two surnames. The question is whether the identity of the original Government lessee and the person who obtained statutory permission to transfer the Government-derived land has been established through reliable contemporaneous official material. There is no satisfactory contemporaneous official order showing that the Government records identifying the original lessee as Raghu Naik were formally corrected by the competent authority to Raghu Bhoi, or that Raghu Bhoi was officially recognized as an alias of Raghu Naik for purposes of the Government lease and statutory transfer restrictions. A unilateral or self-serving declaration in a subsequent deed cannot, by itself, cure a foundational identity discrepancy in a Government land transaction. The fact that the correction deed was executed only after the first sale deed dated 03.03.1983 also warrants careful scrutiny.

16. The petitioner's case is that the first transfer was valid because permission was obtained under Section 22 of the OLR Act. That submission overlooks the fact that the validity of the permission depends upon the correct identification of the transferor and application of the correct statutory regime. Section 22 specifically protects land held by members of Scheduled Tribes and Scheduled Castes and prescribes statutory restrictions on alienation. The Supreme Court has also recognised the importance of the statutory restrictions under Section 22 in transactions involving Scheduled Caste/Scheduled Tribe land. In *Revenue Officer v. Prafulla Kumar Pati*, (1990) 2 SCC 162, the Supreme Court examined the statutory requirement of permission and the question of the transferor's Scheduled Caste

status. Similarly, the Orissa High Court has held that a sale by a Scheduled Tribe member to a non-Scheduled Tribe person without the permission contemplated under Section 22 is void. In the present case, therefore, the Court cannot treat the alleged Section 22 permission as conclusive when the identity and community status of the transferor appearing in that permission materially differ from the identity and community status appearing in the original Government lease record.

17. The registered Correction Deed No.8707 dated 28.10.1983 is also incapable of removing the fundamental doubt. A correction deed may correct a genuine clerical or descriptive mistake. But where the disputed correction concerns the very identity of the transferor in a Government-derived title and also has implications under Section 22 of the OLR Act, the correction cannot be treated as automatically establishing identity. The Court is particularly conscious that the original lease record describes Raghu Naik, son of Dhani Naik, as a Scheduled Tribe person, whereas the permission document refers to Raghu Bhoi, Scheduled Caste. The correction deed itself cannot establish that the person described in the permission proceeding was the same person who had originally obtained the Government lease. Such a conclusion would require reliable supporting evidence from the competent revenue authority. No such satisfactory evidence is before the Court.

18. The petitioner has placed substantial reliance upon the order dated 10.05.2002 passed by the Addl. Tahasildar, Bhubaneswar under Section 3-B of the OGLS Act and the subsequent order dated 09.05.2006 of the Hon'ble High Court of Orissa in W.P.(C) No.6589 of 2006 quashing the resumption order. It is true that the order dated 10.05.2002 was quashed and that the Tahasildar thereafter restored the lease record by order dated 20.09.2006. However, the legal effect of the Hon'bleHigh Court order must be understood correctly. The quashing of an order of resumption does not necessarily amount to an adjudication that the original Government lease was validly and lawfully granted in the first place. The issue before the Court in W.P.(C) No.6589 of 2006 was the legality of the resumption order dated 10.05.2002. The materials presently before this Court demonstrate that the Hon'bleHigh Court did not finally adjudicate upon the authenticity of the original W.L. Case No.1364/59-60, the overwriting in W.L. Case No.469/59-60, the identity discrepancy between Raghu Naik and Raghu Bhoi, or the validity of the Section 22 permission. Consequently, restoration of the revenue entry following the quashing of the resumption order cannot

be treated as an adjudication validating every aspect of the original lease transaction. The distinction is important.

19. The original resumption order dated 10.05.2002 was based primarily on alleged non-use of the land for agricultural purposes and absence of possession/ cultivation. That order did not finally adjudicate the present questions concerning the authenticity of the original lease records and identity of the alleged transferor. The subsequent restoration order of 20.09.2006 was consequential to the quashing of the resumption order. Therefore, the said restoration cannot operate as an estoppel against the State in examining whether the petitioner has actually established a lawful title traceable to a valid Government grant.

20. The subsequent reports placed before this Court show that the petitioner is presently in possession of the land, has constructed a compound wall and has standing Moong Dal crop over the property. This fact is duly noticed. However, possession by itself cannot establish title. Likewise, the fact that land revenue has been paid over a period of years cannot validate a void or fundamentally defective Government grant. The present possession is therefore not decisive of the question of title. The report of the Revenue Inspector also states that no transfer was made within ten years of sanction of the lease. That fact may be relevant to the question of compliance with the statutory restriction period if a valid lease is otherwise established. It cannot, however, cure defects in the very sanction of the lease.

21. The petitioner has relied upon the mutation order dated 30.01.1986 in Mutation Case No.1509/85 and the subsequent ROR showing his name in Sthitiban status. It is settled that mutation is primarily fiscal in character and does not by itself create title. The same principle applies with greater force where the mutation is derivative of a disputed Government grant. The entry in the ROR may raise a presumption in appropriate circumstances, but such presumption is rebuttable and cannot be permitted to override foundational documentary evidence demonstrating serious irregularities. The petitioner has therefore not succeeded in establishing that the Sabik entry in his favour is sufficient to compel the Settlement Authority to perpetuate the entry in the Hal record.

22. A further material circumstance emerging from the lease mutation Record-of-Rights produced in the case record is that the lease mutation ROR stands in the name of Raghu Naik, described therein as belonging to the Adivasi/Scheduled Tribe community, and the *Swatwa* of the holding has been recorded as "DakhalSatwa Sunya" since the year 1973-74. This entry assumes considerable significance in examining the nature of the right created under the alleged Government lease and the subsequent transfer relied upon by the Revision Petitioner. The entry of "DakhalSatwa Sunya" is not a mere recent revenue description introduced during the proceedings. It appears in the lease mutation ROR from a period much prior to the departmental instruction dated 28.01.2021 relied upon by the petitioner.

23. The Revision Petitioner has relied upon Government in Revenue and Disaster Management Department Letter No. RDM-CHS-PGOT-0303-2020/L. No.3063/R&DM dated 28.01.2021, issued by the Principal Secretary to Government to all Collectors regarding recording of land having "DakhalSatwaBisista" and "DakhalSatwa Sunya" status. The petitioner has sought to contend, on the strength of the said instruction, that land bearing such status was required to be recorded in *Sthitiban* status. The said submission, however, cannot be accepted as a basis for validating the petitioner's derivative title.

24. The subsequent Government clarification issued vide Letter No. RDM-CHS-PGOT-0303-2020/23868/R&DM dated 02.07.2025, specifically concerning recording of RORs with "DakhalSwatwa Sunya" status and supersession of the earlier instruction, is also relevant. The said clarification expressly records that the earlier letter dated 28.01.2021 had led to considerable confusion at the field level by omission of an important part of Paragraph 23 of the instructions issued vide Department Letter No.47582 dated 12.10.1990. It further records that the broad interpretation of the letter dated 28.01.2021, whereby "DakhalSwatwa Sunya" was being changed indiscriminately to "Sthitiban" in Government lease records, was erroneous and illegal.

25. Significantly, the Government clarification dated 02.07.2025 states that where Government land had been settled on lease and the ROR had been prepared with "Swatwa" recorded as "DakhalSwatwa Sunya", such entry was to be dealt with in accordance with the applicable Government instructions and that Government land settled under lease was to be appropriately reflected as "Pattadar" status in the

circumstances contemplated therein. The clarification also specifically provides that any change already effected on the basis of the letter dated 28.01.2021, whereby "DakhalSwatwa Sunya" had been altered to "Sthitiban" or any other *Swatwa*, was not to be treated as creating an independent private title, but was required to be brought in conformity with the subsequent Government directions. The letter dated 28.01.2021 was expressly withdrawn with immediate effect.

26. The chronology is of considerable importance. The lease mutation ROR produced in the present case shows the *Swatwa* of the alleged lease holding as "DakhalSatwa Sunya" from 1973-74, whereas the departmental letter dated 28.01.2021 came nearly five decades later. Therefore, the said departmental letter could have no retrospective operation so as to alter the legal character of a transaction which had already taken place decades earlier, nor could it retrospectively validate a transfer made from the leasehold holding. The petitioner cannot derive any vested or transferable right from an administrative instruction issued in 2021, particularly when the entry relied upon by him was already existing since 1973-74.

27. Equally important is the fact that the alleged first transfer in favour of Bipra Charan Patra took place on 03.03.1983, whereas the Government letter dated 28.01.2021 was issued nearly thirty-eight years thereafter. Consequently, the legality of the transfer dated 03.03.1983 has necessarily to be examined with reference to the nature and terms of the Government lease, the *Swatwa* then recorded, the statutory restrictions applicable to the original lessee, and the law governing transfer of such leasehold property as prevailing on the date of transfer. The petitioner cannot rely upon a subsequent departmental clarification of 2021 to retrospectively confer transferability upon a leasehold interest which, at the relevant time, did not possess such transferable incidents.

28. The subsequent Government clarification dated 02.07.2025, rather than assisting the petitioner, reinforces the necessity of examining the original lease records carefully. The clarification itself takes note of cases where Government land had been settled under different provisions and had subsequently been wrongly recorded as "DakhalSwatwa Sunya", and further records that such recording by the Tahasildars could be erroneous and illegal. It therefore follows that the mere description of a holding as "DakhalSatwa Sunya" in a mutation ROR cannot, by

itself, be treated either as conclusive proof of a transferable raiyati right or as proof that the subsequent alienation was legally permissible. The nature and extent of the right created in favour of the original lessee, and the legal validity of the subsequent transaction, therefore require independent examination with reference to the law applicable at the relevant point of time.

29. In the present case, the position is still more serious because the lease mutation ROR identifies the original lessee as **Raghu Naik, an Adivasi/Scheduled Tribe person**, and records the *Swatwa* as "DakhalSatwa Sunya" since 1973-74. The subsequent transfer relied upon by the petitioner therefore required strict scrutiny not only with regard to the nature of the right recorded in favour of the original lessee but also with regard to the statutory restrictions applicable to transfer by a Scheduled Tribe person. The alleged transfer cannot be treated as valid merely because a subsequent revenue entry or departmental instruction is relied upon. The legality of the transfer has to stand independently on the contemporaneous statutory permission and the law applicable on the date of transfer.

30. Thus, the reliance placed by the Revision Petitioner upon the departmental letter dated 28.01.2021 is misplaced. The said letter neither operated retrospectively nor constituted a statutory order converting every existing "DakhalSatwa Sunya" holding into a freely transferable *Sthitiban* tenancy. More importantly, the letter itself has subsequently been withdrawn by the Government vide Letter No. RDM-CHS-PGOT-0303-2020/23868/R&DM dated 02.07.2025. The petitioner's transfer of the leasehold property, having taken place decades before the 2021 instruction, must be tested with reference to the law applicable to the holding and the transfer at the relevant point of time. The subsequent departmental correspondence cannot retrospectively confer transferability upon the holding or validate a transfer which was otherwise prohibited in law.

31. The Court therefore finds that the entry of "DakhalSatwa Sunya" in the lease mutation ROR since 1973-74 is a material circumstance which further weakens the petitioner's attempt to treat the subsequent transactions as automatically conferring transferable proprietary rights. The said entry, read with the doubtful original lease records, the identity discrepancy concerning Raghu Naik/Raghu Bhoi, the Scheduled Tribe/Scheduled Caste discrepancy, the questionable Section 22 permission and

the absence of a clear and unimpeachable sanction order, requires the entire chain of transactions to be viewed with considerable caution. The petitioner has failed to establish that the subsequent sale transaction acquired validity merely by virtue of the revenue entries or by reference to the departmental letter dated 28.01.2021.

32. The principle of fraud and suspicious public records. The law relating to fraud is well settled. In S.P. Chengalvaraya Naidu v. Jagannath, (1994) 1 SCC 1, the Hon'ble Supreme Court held that fraud avoids judicial acts and that an order obtained by fraud is a nullity. The Supreme Court has subsequently reiterated that fraud practised upon a Court, Tribunal or authority renders the resulting order a nullity and that fraud is an act of deliberate deception intended to secure an unfair advantage. The principle is not confined to ordinary civil litigation. Where a statutory or public authority is induced to act upon a false identity, manipulated record or material misrepresentation, the foundation of the resulting transaction becomes legally vulnerable. The present case, however, requires a careful distinction. This Court is not recording a criminal conviction for forgery or fraud. Such determination is within the jurisdiction of the competent criminal court upon appropriate proceedings. But this Court is fully entitled, while exercising revisional jurisdiction under the Settlement Act, to examine whether the documentary foundation relied upon by a claimant is sufficiently reliable to support a direction for recording Government land in his favour. On that limited question, the material discrepancies are overwhelming.

33. The decision of the Division Bench of the Hon'ble Orissa High Court in Subala Tarai v. Collector, Puri, O.J.C. Nos.16823 and 16824 of 2001, decided on 06.02.2019, is particularly instructive. The Court considered allegations of irregularities in Government lease records and held that where the competent revisional authority found gross irregularities in the settlement of Government land, cancellation of the leases and correction of the ROR could be justified. The Court observed that a Government lease obtained fraudulently and surreptitiously and without following due procedure of law cannot found a claim to valid possessory rights. The facts of the present case are materially distinguishable from a case where an otherwise regular lease is sought to be disturbed merely because of subsequent suspicion. Here, the original records themselves contain:-

- A discontinuity in the proceedings of W.L. Case No.1364/59-60;

- Absence of the expected proceeding dated 05.04.1968;
- Reliance upon W.L. Case No.469/59-60;
- A case record apparently opened in the name of Lokanath Sethi;
- Subsequent use of the same record for a large number of persons;
- Approximately 138 persons being dealt with in one case record;
- Apparent overwriting of the case number from 470 to 469;
- Absence of the original lease register for the relevant period;
- Mismatch between Raghu Naik and Raghu Bhoi;
- Mismatch between Scheduled Tribe and Scheduled Caste descriptions; and
- Absence of satisfactory official material establishing the identity of Raghu Naik with Raghu Bhoi.

These are not isolated minor defects. Taken cumulatively, they create a serious and reasonable doubt about the authenticity and legal foundation of the alleged lease.

34. The Revision Petitioner has placed reliance upon the judgment of the Hon'ble High Court in PadmanavPrusty v. State of Odisha, W.P.(C) No.12776 of 2014, decided on 06.04.2018, and other decisions such as *Smt. Sakuntala Dash v. State of Odisha*, contending that Settlement Authorities cannot cancel an OGLS lease. There can be no quarrel with the general proposition that an Assistant Settlement Officer exercising powers under the Odisha Survey and Settlement Act is not a substitute for the competent authority under the OGLS Act and cannot, merely on his own assessment, assume the jurisdiction of an OGLS revisional authority. The Division Bench in *PadmanavPrusty* indeed held that the Settlement Authority cannot behave like an appellate authority to cancel a lease granted under another statutory regime. The

principle has subsequently been reiterated by the Hon'bleHigh Court. Likewise, decisions relied upon by the petitioner concerning settlement authorities proceeding on general suspicion, while a valid lease continues to stand, have to be applied in the factual context in which they were rendered. The present case stands on a different footing. Here, the petitioner is seeking a positive adjudication and consequential recording of his name on the strength of a disputed and materially suspicious lease record. The petitioner cannot invoke the limited jurisdiction of the Settlement Authority as a shield against scrutiny of whether he has established the foundational document on which his derivative title depends. The proposition that the Settlement Authority cannot itself cancel an otherwise valid lease does not mean that the Settlement Authority is bound to record the name of a person who fails to establish a lawful and reliable source of title.

35. The petitioner seeks a positive direction that the scheduled land be recorded in his name in Sthitiban status. For such relief, the petitioner must establish the legal foundation of his claim. The burden cannot be shifted upon the State merely because a registered sale deed or mutation entry exists. The registered sale deed of 1985 derives its validity from the title of the vendor, and the vendor's title derives from the predecessor-in-interest, namely the original lessee. If the original lease itself is not satisfactorily established, the subsequent purchaser cannot demand recognition merely by producing subsequent documents. The petitioner has therefore failed to discharge the foundational burden necessary for obtaining the relief sought.

36. The petitioner has also emphasized that the sale deed dated 08.01.1985 was registered and that the earlier sale deed dated 03.03.1983 was also registered. Registration, however, establishes execution and registration of the instrument; it does not independently establish that the transferor possessed an indefeasible title capable of being transferred. A registered document cannot validate a transaction which is founded upon a void or legally defective source of title. In the present case, the identity discrepancy in the first transfer is particularly serious because the statutory permission under Section 22 of the OLR Act itself appears to have been obtained/issued on the basis of a description different from the original lessee.

37. The petitioner has relied upon Section 6-A of the OLR Act and submitted that the original lessee had completed the restriction period of ten years before the first

sale. That argument cannot be accepted at this stage. The question whether the statutory restriction period expired becomes relevant only after the Court is satisfied that there was a valid lease in favour of the person who subsequently transferred the land. A statutory right of transfer cannot arise from a transaction whose very foundation has not been established. Thus, the fact that the sale took place more than ten years after the alleged lease does not cure the defects in the original lease.

38. The petitioner has relied upon Joint Collector, Ranga Reddy District v. D. Narasingh Rao, (2015) 3 SCC 695, contending that stale transactions should not ordinarily be reopened after a long period. The said principle is undoubtedly relevant where a competent authority seeks to unsettle concluded rights after an unreasonable lapse of time. However, the principle cannot be applied mechanically to protect a claimant whose title itself is founded upon a materially doubtful and allegedly manipulated public record. The law does not prescribe that the passage of time can convert an invalid transaction into a valid one. At the same time, this Court is conscious that mere suspicion cannot replace proof. Therefore, the conclusion in the present case is not based upon the general allegations of irregularity referred to in the earlier proceedings concerning Bhubaneswar Tahasil. It is based upon the specific documentary discrepancies found in the records concerning the petitioner's own alleged source of title.

39. The impugned order of the Assistant Settlement Officer referred broadly to irregularities in lease cases in Bhubaneswar Tahasil. Standing alone, such a general observation would not be sufficient to divest a person of a long-standing recorded right. However, the present revision has brought the original lease records before this Court. Upon independent examination of those records, this Court finds that the concern expressed by the Assistant Settlement Officer cannot be treated as wholly extraneous so far as the present case is concerned. The original records themselves disclose specific irregularities which are directly connected with the petitioner's alleged title. Thus, this is not a case where the land is being taken away merely because irregularities were found in some unrelated lease.

40. The Sub-Collector, Bhubaneswar has reported that the lease case register for 1959-60 is not traceable. In addition, the original W.L. Case No.469/59-60 contains an overwritten case number. The inability to produce the relevant case register,

coupled with alteration of the case number and the fact that the record appears to concern Lokanath Sethi but is relied upon in support of Raghu Naik's alleged lease, makes the document unsafe to rely upon as the foundational source of title. The Court cannot close its eyes to these circumstances merely because a later revenue entry was made on its basis.

41. The petitioner has not produced a clean, unambiguous and unimpeachable order of competent authority sanctioning the lease in favour of Raghu Naik corresponding to the exact scheduled land and establishing the legal continuity between W.L. Case No.1364/59-60 and W.L. Case No.469/59-60. Instead, the record shows that:-

- W.L. Case No.1364/59-60 was opened in the name of Raghu Naik;
- W.L. Case no.469/59-60 was originally associated with Lokanath Sethi;
- The case number is overwritten;
- A large number of persons were dealt with in the same case record;
- The relevant case register is unavailable; and
- The transfer permission contains a different name and caste description.

The cumulative effect is that the petitioner has failed to establish the legal continuity of his title.

42. Once the foundational lease is not satisfactorily established, the subsequent sale deed dated 03.03.1983, correction deed dated 28.10.1983 and sale deed dated 08.01.1985 cannot, by themselves, compel recognition of the petitioner's title against the State. The doctrine of *nemo datquod non habet* applies with full force. A purchaser cannot acquire a better title than that of his vendor. The petitioner's case is therefore not merely a question of correcting a clerical entry in a Record-of-Rights. It involves a disputed foundational Government grant.

43. In view of the foregoing findings, the matter shall not be treated as confined merely to the individual claim of the Revision Petitioner. The records disclose

circumstances requiring examination of the larger Government land settlement transactions connected with the relevant lease case. Accordingly, the concerned authorities shall take necessary steps to ensure preservation and safe custody of the original lease and revenue records until completion of the enquiry/investigation.

44. The competent authorities shall examine, in particular, whether the Government land measuring approximately Ac.120.00, stated to have been settled in favour of approximately 138 persons through a single lease case record originally opened in the name of Lokanath Sethi, was settled through independent and lawful proceedings and whether the subsequent mutation, conversion of status, possession and alienation of such land were in conformity with the applicable Acts, Rules, Government lease conditions and departmental instructions.

45. A copy of this order, together with the relevant records, shall accordingly be forwarded to the Revenue and Disaster Management Department, Government of Odisha, for appropriate departmental enquiry, and copies shall also be forwarded to the Crime Branch, Odisha and Economic Offences Wing, Odisha, for independent examination/investigation in accordance with law. Such forwarding shall not amount to a finding of criminal guilt and shall not prejudice the rights of any person in any proceeding before the competent authority or court.

46. The concerned authorities shall submit an appropriate action-taken/ compliance report to the Board of Revenue after undertaking the preliminary examination/enquiry as directed herein.

47. This Court is exercising jurisdiction under Section 32 of the Odisha Survey and Settlement Act, 1958. The purpose of revision is to ensure that the Record-of-Rights is prepared in accordance with the legal rights established on the materials available. The Settlement Authority cannot be compelled to perpetuate an entry merely because an earlier entry was made if subsequent scrutiny of the foundational record demonstrates that the claimant has failed to establish the source of his right. The revision petitioner has sought a positive direction for recording the land in his favour. Such relief cannot be granted merely on the basis of long possession or mutation where the title itself remains unestablished.

48. Further enquiry into the original Government lease records.—The materials placed before this Court disclose circumstances which extend beyond the individual claim of the Revision Petitioner. In particular, the records indicate that a lease case bearing the name of Lokanath Sethi appears to have subsequently been utilised in connection with settlement of Government land in favour of approximately 138 persons, involving an area stated to be around Ac.120.00 of valuable Government land in and around Bhubaneswar. The circumstances concerning the opening, processing, alteration, utilisation and finalisation of the said lease case, including the manner in which one case record came to be associated with such a large number of beneficiaries, require an independent examination by the competent Government authorities.

49. The Court is conscious that the present proceeding under Section 32 of the Odisha Survey and Settlement Act, 1958 is not a criminal trial and that this Court is not recording any finding of criminal guilt, forgery or conspiracy against any individual. Nevertheless, where the original Government records disclose apparent discrepancies, overwriting, doubtful continuity of proceedings and possible utilisation of a single lease case record for settlement of a very large extent of Government land in favour of numerous persons, the matter cannot appropriately end with adjudication of the individual revision petition alone. Protection of Government property and preservation of the integrity of public land records require that the competent authorities examine the matter independently and in accordance with law.

50. Direction to Revenue and Disaster Management Department.—Accordingly, the complete original lease record, including W.L. Case No.1364/59-60, W.L. Case No.469/59-60 and all connected lease/mutation records, registers, order-sheets, maps, Patta records, RORs, sanction orders, transfer permissions and other connected documents relating to the settlement of the Government land, shall be forwarded through the Secretary, Board of Revenue, to the Revenue and Disaster Management Department, Government of Odisha, for a comprehensive examination and further enquiry at the appropriate level. The Department may examine, inter alia, the circumstances in which the lease case was opened, the identity of the original applicants, the total area of Government land involved, the authority competent to sanction the leases, the number and identity of beneficiaries, the legality of the settlement proceedings and the subsequent mutation and transfer of the land.

51. The Revenue and Disaster Management Department shall also examine whether the reported settlement of approximately Ac.120.00 of valuable Government land in favour of approximately 138 persons through/with reference to a lease case originally opened in the name of Lokanath Sethi was supported by separate and legally sustainable proceedings in respect of each beneficiary and each parcel of land, or whether a single case record was improperly utilised for multiple settlements. The Department may call for the relevant original registers and records from the concerned Tahasil, Sub-Collector, Collectorate, Settlement Office and other offices and may cause a physical and record-based verification of the Government land involved.

52. Direction for criminal/economic investigation.—In view of the apparent overwriting/tampering of the case number, the doubtful continuity of the lease proceedings, the use of a case record bearing the name of one applicant for settlement in favour of a large number of persons, the substantial extent of Government land reportedly involved and the other discrepancies noticed in the present record, a copy of this order along with the relevant available records/documents shall also be forwarded to the Crime Branch, Odisha, and the Economic Offences Wing (EOW), Odisha, for such preliminary examination/investigation as may be considered warranted under law. The competent investigating agency shall be at liberty to examine the original records and determine, in accordance with law, whether the circumstances disclose any offence relating to fabrication, manipulation or use of Government records, fraudulent settlement or alienation of Government land, conspiracy, or any other cognizable offence.

53. The forwarding of the records to the Revenue and Disaster Management Department, Crime Branch and Economic Offences Wing shall not be construed as a finding of criminal liability against the Revision Petitioner or any other individual. The purpose of such forwarding is to enable the competent authorities/agencies to independently examine the original records and take such action as may be permissible in law. Any person against whom proceedings may be initiated shall be dealt with in accordance with the principles of natural justice and the procedure prescribed by the applicable law.

54. The concerned Tahasildar and other revenue authorities shall preserve the original lease records, registers, order-sheets, maps and connected documents

relating to the aforesaid Government land and shall not permit destruction, alteration, removal or substitution of any original record until the enquiry/investigation is completed or until further orders of the competent authority. Certified copies of the relevant records may be supplied to the Department or investigating agency as required, while ensuring preservation of the originals.

55. The Secretary, Board of Revenue shall take necessary steps for transmission of the relevant records and a copy of this order to the Revenue and Disaster Management Department, Government of Odisha, Crime Branch, Odisha and Economic Offences Wing, Odisha, for appropriate action in accordance with law. The authorities concerned may submit an action-taken/compliance report to the Board of Revenue after completion of the preliminary examination/enquiry as considered appropriate.

56. It is made clear that the directions contained in the foregoing paragraphs are independent of and without prejudice to the adjudication of the present revision petition. The dismissal of the present revision petition is based upon the failure of the petitioner to establish a lawful and reliable source of title and the material discrepancies found in the records. The further enquiry/investigation directed herein is intended to protect public records and Government property and to ascertain the legality of the larger land-settlement transactions disclosed by the records.

57. The petitioner has also challenged the order of the Assistant Settlement Officer on the ground that notice was not served upon him. Ordinarily, denial of reasonable opportunity of hearing is a serious defect. However, in the present case, the petitioner thereafter availed the statutory appellate remedy and placed his case before the appellate authority. He has also had full opportunity before this revisional forum to produce and rely upon all relevant records. More importantly, the present order is not founded merely upon the reasoning originally recorded by the Assistant Settlement Officer. The original records have now been called for and examined. The question before this Court is whether, on the entire material presently available, the petitioner has established an enforceable right warranting recording of the land in his favour.

58. The field report dated 28.08.2024 records that the petitioner is in possession and that Moong Dal crop is standing over the land. The Court does not dispute the

petitioner's present physical possession. Nevertheless, possession cannot substitute for title. The present proceeding concerns preparation/correction of the Record-of-Rights and not adjudication of possession simpliciter. Where the claimant seeks recognition of private rights over Government land, the legal foundation of such rights must first be established.

59. On a cumulative assessment of the materials, this Court finds that there are grave, specific and material circumstances indicating manipulation, misrepresentation and irregularity in the chain of records relied upon for establishing the alleged lease and subsequent transfer. The Court particularly relies upon:-

I. The unexplained break in W.L. Case No.1364/59-60;

II. Absence of the expected proceeding dated 05.04.1968;

III. The subsequent reliance upon W.L. Case No.469/59-60;

IV. The fact that W.L. Case No.469/59-60 originally bears the name of Lokanath Sethi;

V. The apparent alteration/overwriting of the case number from 470 to 469;

VI. The fact that the same case record appears to contain settlement in favour of approximately 138 persons;

VII. Non-availability of the relevant lease case register;

VIII. The description of the original lessee as Raghu Naik, Scheduled Tribe, in the lease and revenue records;

IX. The description of the transferor as Raghu Bhoi, Scheduled Caste, in the Section 22 permission;

X. The absence of satisfactory official evidence establishing Raghu Naik and Raghu Bhoi as the same person for purposes of the Government lease;

XI. The subsequent self-description of Raghu Bhoi as Raghu Bhoi alias Naik in the correction deed; and

XII. The fact that the entire private title claimed by the petitioner depends upon these documents.

60. These circumstances, considered together, are sufficient to hold that the petitioner has failed to establish a clean and legally reliable title capable of being recognized in the present settlement proceeding. The finding is confined to the adjudication necessary for the present revision. Any question of criminal culpability or forgery, if otherwise warranted, shall remain within the jurisdiction of the competent authority/court.

61. Government land stands in a fiduciary/public capacity and the State cannot be compelled to recognize a private claim founded upon doubtful or manipulated records. The principle that fraud vitiates solemn acts is well established. The Supreme Court has repeatedly held that fraud practiced upon a Court or statutory authority strikes at the root of the resulting proceeding. The Orissa High Court has similarly recognized that a Government lease obtained fraudulently, surreptitiously or without following due procedure cannot found valid possessory rights. In the present case, therefore, the Court cannot invoke equitable considerations of long possession, mutation or payment of rent to compel recognition of a title whose foundational source has not been established.

62. The Court is also unable to accept the petitioner's contention that the Sabik ROR standing in his name since 1986 is conclusive. A revenue entry cannot legalize an otherwise defective Government grant. The presumption attached to a Record-of-Rights is rebuttable and is not a source of title in itself. The Settlement Authority is therefore justified in refusing to perpetuate an entry when the underlying source document has been found to be materially doubtful.

63. The petitioner has sought recording of the land in Sthitiban status. That prayer is consequential upon the alleged valid lease and subsequent valid transfer. Once the foundational transaction has not been established, there is no occasion to grant the consequential prayer for Sthitiban status. The Court, therefore, finds no legal basis to direct recording of the land in the name of the Revision Petitioner in Sthitiban status.

64. After considering the pleadings, written submissions, original lease records, revenue records, field reports and the reports of the Tahasildar, Sub-Collector, Additional District Magistrate and other authorities, this Court arrives at the following conclusions:-

I. The petitioner's title is wholly derivative from the alleged Government lease granted to Raghu Naik.

II. The original W.L. Case No.1364/59-60 does not disclose a continuous, unimpeachable chain of proceedings culminating in a clearly identifiable and legally established sanction in favour of Raghu Naik.

III. The reliance upon W.L. Case No.469/59-60 is surrounded by serious irregularities.

IV. The said case record bears the name of Lokanath Sethi at its inception, whereas it has subsequently been relied upon in support of Raghu Naik's alleged lease.

V. The case number appears to have been overwritten/tampered with.

VI. The same lease record appears to have been utilised for settlement in favour of a very large number of persons, approximately 138, without satisfactory explanation.

VII. The relevant lease case register for 1959-60 is not traceable.

VIII. The identity of Raghu Naik and Raghu Bhoi has not been satisfactorily established by competent official records.

IX. The original lease records describe Raghu Naik as a Scheduled Tribe person, whereas the Section 22 OLR permission describes Raghu Bhoi as a Scheduled Caste person.

X. The discrepancy is material because Section 22 of the OLR Act imposes statutory restrictions on alienation by Scheduled Tribe and Scheduled Caste raiyats.

XI. The subsequent correction deed cannot, by itself, cure the foundational identity discrepancy.

XII. The subsequent restoration of the revenue entry by the Tahasildar does not cure the foundational defects now apparent from the original records.

XIII. The petitioner's subsequent possession, mutation, payment of rent and ROR entry do not independently establish title against the State.

XIV. The lease mutation ROR records the *Swatwa* as "DakhalSatwa Sunya" since 1973-74, which is a material circumstance requiring due consideration. The subsequent alienation, therefore, requires examination with reference to the applicable law at the relevant point of time and cannot be treated as valid merely on the basis of subsequent revenue entries.

XV. The petitioner has therefore failed to establish a lawful and reliable source of title sufficient to obtain a direction for recording the scheduled land in his favour.

65. The authorities relied upon by the petitioner concerning the limited jurisdiction of Settlement Authorities to cancel an OGLS lease do not assist him in the peculiar facts of the present case because the petitioner seeks positive recognition of title founded upon a lease record whose authenticity and legal continuity have not been established.

66. In view of the foregoing discussion, this Court finds no sufficient ground to interfere with the ultimate conclusion of the learned Assistant Settlement Officer and the learned appellate authority insofar as the scheduled land has not been directed to be recorded in favour of the Revision Petitioner. The Revision Petitioner has failed to establish that he has acquired a legally enforceable right over the scheduled Government land on the basis of the alleged lease in W.L. Case No.1364/59-60 and the subsequent transactions. The revision petition is, therefore, devoid of merit and liable to be dismissed.

Accordingly, the OSS Case No.854 of 2022 is hereby **dismissed**.

67. The prayer of the Revision Petitioner for setting aside the order dated 15.07.2013 passed by the learned Assistant Settlement Officer, Rental Colony, Bhubaneswar in Rent Case No.7248/2013 and the appellate order dated 05.09.2013 passed by the learned Additional Sub-Collector-cum-Additional Settlement Officer, Bhubaneswar in Appeal No.1487/2013 is rejected. The further prayer for recording Hal Plot No.1024, corresponding to Sabik Plot No.1400/1659 under Sabik Khata No.224/165, measuring Ac.0.1500/Hec.0.0607 of Mouza-Sampur, Tahasil-Bhubaneswar, in the name of the Revision Petitioner in Sthitiban status is also rejected.

68. The land shall be dealt with in the Record-of-Rights in accordance with the applicable revenue records and law. It is, however, made clear that the observations contained herein regarding the suspicious features, apparent manipulation and discrepancies in the original lease records are confined to the adjudication of the present revision under the Odisha Survey and Settlement Act, 1958. They shall not be construed as a final criminal adjudication regarding forgery or falsification of records. If the competent revenue authority considers it necessary, it shall be open to such authority to take appropriate action under the Odisha Government Land Settlement Act, 1962 or any other applicable law in respect of the original lease and the subsequent transactions, after following the procedure prescribed by law.

69. The concerned revenue authorities shall also ensure that no private claim is recognized merely on the basis of subsequent mutation, rent receipts or derivative documents unless the competent authority is satisfied about the authenticity and legality of the foundational Government grant. The record be consigned as per rules.

70. Original/Certified copy of documents filed be returned to the petitioner by keeping a photocopy of the same in the case record.

Pronounced the order in the open court today, i.e. on the13th day of August, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Kataka

OSS Revision Case No. 263 of 2015

Decided on 13.08.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Kataka.)

Ramesh Chandra Sethi ..... **Petitioner**

-Versus-

State of Odisha represented through
Principal Secretary to Govt. G. A. Department
Odisha, Bhubaneswar & others .....**Opp. Parties**

For the petitioner ... Mr. Dillip Kumar Tripathy, Advocate

For Oposite Party No. 1 to 4 & 8 ... Mr. S. S. Das, Addl. Standing Counsel

For Opposite Party No. 5 & 6 .... None

Orissa Survey & Settlement Act, 1958—Section 15(b)—Government Lease—Derivative Title—Government Grants Act, 1895—Inconclusive Resumption Proceedings—Breach of Lease Conditions—"Dakhal Satwa Sunya"—Identity and Possession of Land—Suspicious Lease Records—Record-of-Rights.

Held: The revision petition was **dismissed**. The Board found that the petitioner failed to establish lawful and identifiable possession or any valid entitlement for correction of the finally published Hal Record-of-Rights. The petitioner's derivative title rested upon a Government lease granted to Prasanna Kumar Mitra, which was subject to conditions restricting alienation and had become the subject of resumption proceedings under the Govt. Grants Act, 1895. The proceedings remained inconclusive, and the Board, exercising limited jurisdiction under Section 15(b), could not adjudicate upon the validity, continuation or resumption of the lease. The petitioner also failed to establish precise identification and possession of the land. Serious doubts were noticed regarding certain lease records, including chronological inconsistencies in official note sheets. The lease mutation ROR recorded the status as "**Dakhal Satwa Sunya**", and no satisfactory evidence of requisite permission for subsequent transfers was produced. Accordingly, the Hal ROR was left unaltered and the competent revenue authorities were directed to scrutinise the inconclusive resumption proceedings and similar cases in accordance with law.

DECISION

1. The present Revision Petition has been filed under Section 15(b) of the Odisha Survey & Settlement Act, 1958 praying for correction of the finally published Hal Record-of-Rights in respect of the schedule land by recording the name of the petitioner in place of the present Government recording. The petitioner seeks correction of the Hal Record-of-Rights relating to Hal Khata No.684, Hal Plot No.1307 measuring Ac.0.038.52 dec of Mouza-Gothapatna, corresponding to Sabik Khata No.201, Sabik Plot No.53, on the assertion that he has acquired valid right, title and possession over the said land through a chain of registered Sale deeds originating from a Government lease granted in favour of one Shri Prasanna Kumar Mitra.

2. I have heard the learned counsel appearing for the petitioner and perused the revision petition, the impugned Record of Rights and all the documents available on record. The history of the case in a nut shell is that the revision case has been filed by the petitioner pertaining to following schedule of land:-

Schedule of Land

Mouza- Gothapatna, P.S.- Chandaka, Tahasil- Bhubaneswar,
District- Khurda.

	Sabik ROR	Mutation ROR	Hal ROR
Mouza	Gothapatna	Gothapatna	Gothapatna
Khata No.	201	174/170	684
Plot No.	53	53/973	1307
Area	Ac.30.490 dec	Ac.4.250 dec	Ac.0.782 dec
Kissam	Puratan Patita	Sarad III	Patita
Recorded Tenant	Anabadi (Govt.)	Prasanna Kumat Mitra	Abad Jogya Anabadi (Govt.)

3. The case of the petitioner, as revealed from the revision petition, may briefly be stated as follows. Originally, the suit land appertaining to Sabik Khata No.201, Sabik Plot No.53 measuring Ac.4.250 decimals of Mouza-Gothapatna, P.S.-Chandaka, Tahasil-Bhubaneswar stood recorded in Government AnabadiKhata

having Kisam "PuratanPatita." It is the specific case of the petitioner that under W.L. Case No.294 of 1984, the thenTahasildar, Bhubaneswar settled the said Government land measuring Ac.4.250 decimals in favour of Shri Prasanna Kumar Mitra under the Jawan lease. Consequent upon such settlement, lease Record-of-Rights was allegedly prepared in favour of the lessee under Khata No.174/170, Plot No.53/973 measuring Ac.4.250 decimals with Kisam "Sarad-III". Thereafter mutation was also effected in favour of the said lessee. It is further pleaded that on 30.01.2002 Shri Prasanna Kumar Mitra executed a registered General Power of Attorney in favour of Shri Bijay Kumar Patra authorizing him to deal with a portion of the leasehold property. According to the petitioner, acting under such authority, Shri Prasanna Kumar Mitra together with his attorney holder sold different portions of the leasehold land to various purchasers. One such purchaser was Shri Niranjan Nayak, who purchased Ac.0.03852 decimal (1680 square feet) corresponding to Sub-Plot No.35 under Registered Sale Deed No.3836 dated 28.08.2002.

4. Subsequently, Shri Niranjan Nayak transferred the self-same land in favour of the present petitioner through Registered Sale Deed No.2783 dated 18.03.2007. The petitioner asserts that immediately after purchase he entered into possession of the purchased land and has remained in continuous, peaceful and uninterrupted possession ever since. According to him, no objection was ever raised by any authority regarding his possession over the land.

5. The revision petition relates to the following schedule land. Originally the property formed part of Sabik Khata No.201, Sabik Plot No.53 of Mouza-Gothapatna. Thereafter, during lease mutation, it was recorded under Khata No.174/170, Plot No.53/973.During Major Settlement operation, the corresponding Hal Record-of-Rights was finally published as Hal Khata No.684 Hal Plot No.1307 Area Ac.0.782 decimal Kisam Patita Recorded in AbadjogyaAnabadiKhata. The petitioner seeks correction of this Hal Record by recording his own name.

6. The principal grounds urged by the petitioner are summarized below. According to him, the disputed property forms part of the leasehold land originally granted in favour of Shri Prasanna Kumar Mitra under the Jawan lease. The petitioner contends that the original lessee was in lawful possession of the land and had validly transferred portions thereof through registered instruments. It is further pleaded

that the petitioner is a bona fide purchaser for valuable consideration and has acquired lawful title through successive registered Sale deeds. The petitioner further submits that during settlement operation neither he nor his vendor could take effective steps for recording his name in the Record-of-Rights. It is his grievance that after publication of the Hal Record-of-Rights he found that the disputed property had been recorded under Government AbadjogyaAnabadiKhata instead of recording his name. According to the petitioner, such recording is erroneous, arbitrary and contrary to the documentary evidence produced by him. On these premises, he has prayed for correction of the Hal Record-of-Rights by deleting the Government entry and recording his name.

7. Upon admission of the revision petition, notices were issued to all the opposite parties. The Lower Court Records together with relevant lease records, mutation records and settlement records were called for. Reports were also called for from the Assistant Settlement Officer, Major Settlement, Cuttack and the Tahasildar, Bhubaneswar for verification of the factual position regarding the disputed land. The records received from the subordinate authorities have been carefully perused.

8. The Assistant Settlement Officer, Major Settlement, Cuttack, after verification of the settlement records, has submitted a report stating that the disputed property originally appertains to Sabik Khata No.201, Sabik Plot No.53 of Mouza-Gothapatna. The Sabik Record-of-Rights records the land under Government AnabadiKhata with Kisam "PuratanPatita". During Major Settlement operation, the corresponding Hal Record-of-Rights has been finally published under Hal Khata No.684 Hal Plot No.1307 Kisam Patita. The Hal Record further shows the land under AbadjogyaAnabadiKhata. The Assistant Settlement Officer has not reported existence of any finally published settlement record recognizing the petitioner's name over the disputed land. Accordingly, the report substantially supports continuation of the Government recording in the finally published Hal Record-of-Rights.

9. The Tahasildar, Bhubaneswar has also submitted a detailed report after verification of the revenue records. The report states that Sabik Khata No.201, Plot No.53 of Mouza-Gothapatna originally stood recorded under Government AnabadiKhata having Kisam "PuratanPatita". The corresponding Hal Record has been published as Hal Khata No.684 Hal Plot No.1307 Kisam "Patita" under

Government AbadjogyaAnabadiKhata. The Tahasildar has specifically reported that although enquiry was conducted, the petitioner failed to furnish the land map and other supporting documents necessary for proper identification of the purchased land. In absence of proper map and supporting documents, the exact location and possession of the land claimed by the petitioner could not be verified. Consequently, the Tahasildar has reported that the possession of the petitioner over the disputed Hal Plot could not be established during field verification. The Tahasildar has also enclosed the relevant order sheets relating to initiation of resumption proceedings against the original lessee, Shri Prasanna Kumar Mitra, which have an important bearing upon the controversy involved in the present revision.

10. Apart from the reports of the Assistant Settlement Officer and the Tahasildar, this Court has carefully examined the original lease records produced before it. The records reveal that after grant of lease in favour of Shri Prasanna Kumar Mitra, certain developments subsequently took place leading to initiation of proceedings for resumption of the leasehold land. The order sheets of the Tahasil records indicate that Government, acting upon the enquiry conducted into various lease cases sanctioned in Bhubaneswar Tahasil, issued necessary directions for examining the question of resumption of several Government leases including the lease granted in favour of Shri Prasanna Kumar Mitra.

11. During examination of the original lease file, this Court has also noticed another feature of considerable significance. The office notings of the Tahasildar, Bhubaneswar dated 06.10.1988 and 26.12.1988, whereby the lease case appears to have been reopened for consideration of sanction of lease in favour of the original lessee in Mouza-Gothapatna instead of Mouza-Shyamasundarpur, prima facie raise a serious doubt regarding the authenticity of those particular note sheets.

12. A careful scrutiny of the original record reveals that the note sheets bearing the aforesaid dates have been recorded on Government Press printed sheets carrying the printing date 08.05.1989. Ordinarily, a Government Press stationery printed on 08.05.1989 could not have been available for recording official notings on 06.10.1988 or 26.12.1988, both of which precede the printing date by several months. This chronological inconsistency appearing on the face of the original record renders the genuineness of those particular note sheets open to serious doubt. Although

this Court is not recording any conclusive finding regarding interpolation or fabrication of the record, the anomaly is of such a nature that it cannot be overlooked and deserves examination by the competent authority in accordance with law while dealing with any proceedings relating to the original Government lease.

13. Examination of the Revenue Records and Lease Proceedings. This Court has carefully examined the original lease records, mutation records, reports submitted by the Assistant Settlement Officer, Major Settlement, Cuttack, the Tahasildar, Bhubaneswar and the connected records produced before this Court. The principal claim of the petitioner is founded upon a chain of registered Sale deeds originating from the Government lease granted in favour of Opposite Party No.5, Shri Prasanna Kumar Mitra. Therefore, before examining the legality of the prayer for correction of the Record-of-Rights, it becomes necessary to examine the status of the original Government lease and the subsequent proceedings initiated by the Revenue Authorities. The records reveal that the lease in favour of Shri Prasanna Kumar Mitra was granted under W.L. Case No.294 of 1984 under the Jawan Lease under Govt. Grants Act, 1895. Consequent upon such settlement, lease Record-of-Rights and mutation entries were prepared in his favour.

14. The case record contains a copy of Letter No.3131 dated 05.12.1997 issued by the Additional District Magistrate, Khurda whereby the Tahasildar, Bhubaneswar was directed to initiate necessary action for resumption of the Government land settled in favour of Shri Prasanna Kumar Mitra. The said communication was issued pursuant to Government Letter No.38704/R dated 19.08.1997 of the Revenue & Excise Department. The Government communication reveals that an enquiry had earlier been conducted by Shri R.C. Mishra, I.A.S., regarding Government lease cases sanctioned in Bhubaneswar Tahasil. The enquiry reportedly noticed various irregularities relating to grant and utilization of Government leasehold lands. Consequently, Government directed that appropriate action be taken in accordance with the provisions of the Govt. Grants Act, 1895 for resumption of such lands wherever considered necessary. The records further indicate that the lease granted in favour of Shri Prasanna Kumar Mitra formed one of such cases.

15. The most significant document produced before this Court is the office noting dated 30.12.1997 recorded by the then Tahasildar, Bhubaneswar. The order sheet

records that the case was put up on receipt of Letter No.3131 dated 05.12.1997 of the Additional District Magistrate, Khurda together with Government Letter No.38704/ R dated 19.08.1997. It is further recorded in the notesheet of the Tahasildar, Bhubaneswar dated 30.12.1997 that *"The Government have also vested power of resumption with the Tahasildar in respect of land sanctioned under the Govt. Grants Act, 1895."* The Tahasildar recorded that Government had directed resumption of Ac.4.250 decimals of land settled in favour of Shri Prasanna Kumar Mitra under the Ex-Military quota. The Tahasildar further noticed from the Government communication that irregularities had been pointed out regarding settlement of Government lands in Bhubaneswar Tahasil and that Government had considered it necessary to resume such lands under the Govt. Grants Act, 1895.

16. However, while recording the proceedings, the Tahasildar also made certain important observations. He noted that although the enquiry report submitted by Shri R.C. Mishra, I.A.S., suggested review of such lease cases, no formal review order had yet been passed by the competent revisional authority. The Tahasildar observed that, as recorded in the notesheet dated 30.12.1997, *"The Government have also vested power of resumption with the Tahasildar in respect of land sanctioned under the Govt. Grants Act, 1895."* At the same time, the Tahasildar expressed the view that unless the lease itself was first reviewed or annulled by the competent authority, immediate resumption of the land might give rise to unnecessary legal complications and further litigation. The order sheet further records that the matter had also been discussed with the Additional District Magistrate as well as the Collector, Khurda. Notwithstanding the above observations, the superior authorities insisted that the Government instructions should be implemented. Consequently, the Tahasildar directed issuance of notice to the lessee requiring him to show cause as to why the leasehold land should not be resumed under the Govt. Grants Act, 1895. The matter was thereafter posted for further proceedings.

17. The subsequent order sheets available in the original record have also been examined. They disclose that after issuance of notice, the original lessee appeared through his learned Advocate. The final order sheet available in the case record is dated 16.06.1998. The said order records that the lessee appeared through his Advocate and filed a petition praying for time to submit his reply. The prayer for adjournment was allowed. The case was accordingly posted to 30.06.1998. However,

beyond the said order sheet, no further proceedings are available in the original record. There is no material to indicate that any evidence was recorded thereafter. There is also no material indicating that any final order either resuming the leasehold land or dropping the proceeding was ever passed. Likewise, no order declaring the lease valid or invalid has been produced before this Court. Thus, the records unmistakably establish that the resumption proceeding remained inconclusive.

18. The existence of the above proceeding assumes considerable importance in the present revision. The petitioner derives his title through successive purchasers from the original Government lessee. If the status of the original Government lease itself became the subject matter of statutory proceedings under the Govt. Grants Act, 1895 and such proceeding has admittedly remained inconclusive, the effect of such proceeding cannot be ignored while considering a prayer for correction of the Record-of-Rights. Equally, this Court cannot proceed on the assumption that the lease either continued unaffected or stood legally resumed, in absence of any final adjudication by the competent authority. The records do not disclose any final order in either direction. Accordingly, this Court has to examine the present revision keeping in view the legal position emerging from such incomplete proceedings.

19. At this stage, it is also necessary to keep in view the limited scope of jurisdiction conferred under Section 15(b) of the Odisha Survey & Settlement Act, 1958. The revisional jurisdiction under the said provision is intended primarily to examine the correctness, legality and propriety of entries made in the finally published Record-of-Rights. The Settlement Authority does not exercise the powers of the competent authority under the Govt. Grants Act, 1895as the said lease was granted under this act. While dealing with a revision under Section 15(b). Questions relating to:-

- validity of Government lease,
- cancellation of lease,
- breach of lease conditions,
- resumption of Government land,
- or continuation of leasehold rights,

are matters falling within the jurisdiction specifically vested in the competent Revenue Authority under the Govt. Grants Act, 1895. Consequently, while exercising revisional

powers under the Settlement Act, this Court cannot substitute itself for the authority empowered to decide such questions.

20. In view of the pleadings of the parties, the reports submitted by the Assistant Settlement Officer and the Tahasildar, the lease records, the order sheets relating to the resumption proceeding and the materials available on record, the following points arise for determination:-

i) Whether the petitioner has established lawful right, title and possession over the disputed land so as to warrant correction of the finally published Hal Record-of-Rights under Section 15(b) of the Odisha Survey & Settlement Act, 1958?

ii) Whether the pendency of the resumption proceeding initiated under the Govt. Grants Act, 1895 in respect of the original Government lease has any bearing upon the present revision petition?

iii) Whether this Court, while exercising revisional jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act, can direct correction of the Record-of-Rights in favour of the petitioner when the proceedings relating to the original Government lease remain inconclusive?

iv) Whether the petitioner has succeeded in establishing any legal infirmity in the finally published Hal Record-of-Rights requiring interference by this Court ?

21. Having formulated the aforesaid points for determination, this Court now proceeds to examine each of them independently in the light of the pleadings, documentary evidence, official reports, statutory provisions and settled principles governing correction of the Record-of-Rights.

22. Whether the petitioner has established lawful right, title and possession over the disputed land so as to warrant correction of the finally published Hal Record-of-Rights under Section 15(b) of the Odisha Survey & Settlement Act, 1958?

22-A. Analysis: The foundation of the petitioner's claim rests upon Registered Sale Deed No.2783 dated 18.03.2007 executed by Opposite Party

No.7, Shri Niranjan Nayak. The petitioner claims that Shri Niranjan Nayak had earlier purchased the disputed land from Shri Prasanna Kumar Mitra through his attorney holder, Shri Bijay Kumar Patra, under Registered Sale Deed No.3836 dated 28.08.2002. Thus, the entire claim of the petitioner traces its origin to the Government lease granted in favour of Shri Prasanna Kumar Mitra. In a proceeding under Section 15(b) of the Odisha Survey & Settlement Act, the burden lies upon the petitioner to establish that the entry made in the finally published Record-of-Rights is erroneous and that he possesses a lawful right warranting correction of the record. Such burden cannot be discharged merely by producing a chain of registered sale deeds. The petitioner must establish that the title claimed by him is legally sustainable and that the land sought to be corrected is clearly identifiable and is in his lawful possession.

22-B. In the present case, although the petitioner has relied upon successive sale deeds, the reports submitted by the Revenue Authorities do not support his claim. More importantly, the petitioner has failed to produce the land map, sketch map, field verification report or any other cogent material enabling identification of the exact portion claimed by him in the corresponding Hal Plot. The Tahasildar, Bhubaneswar has specifically reported that despite being called upon to produce the relevant map and supporting documents, the petitioner failed to do so. Consequently, the possession over the claimed portion could not be verified during local enquiry. The inability to identify the exact portion of land claimed by the petitioner strikes at the very root of the relief sought in the present revision. Unless the land is capable of precise identification and lawful possession is established, correction of the finally published Record-of-Rights cannot be directed.

22-C. Finding: In view of the foregoing analysis, the petitioner has failed to establish lawful right, identifiable possession and entitlement to correction of the finally published Hal Record-of-Rights under Section 15(b) of the Odisha Survey & Settlement Act, 1958. The answer to the issue is, therefore, in the negative.

23. Whether the reports submitted by the Assistant Settlement Officer and the Tahasildar support the claim of the petitioner?

23-A. Analysis: The Assistant Settlement Officer, Major Settlement, Cuttack has reported that the disputed property originally appertains to Sabik Khata No.201, Plot No.53, recorded under Government AnabadiKhata with Kisam "PuratanPatita". During the settlement operation, the corresponding Hal Record was finally published as Hal Khata No.684, Hal Plot No.1307, with Kisam "Patita" under AbadjogyaAnabadiKhata. The Tahasildar, Bhubaneswar has independently verified the revenue records and arrived at the same conclusion. According to him, both the Sabik and Hal Records continue to reflect the land as Government land. The Tahasildar has further reported that the petitioner failed to furnish the necessary map and other supporting documents and, therefore, his possession over the specific portion claimed could not be established.

23-B. The aforesaid reports have been submitted by the competent Revenue Authorities in discharge of their official duties after verification of the relevant revenue records. No convincing material has been produced by the petitioner to dislodge or contradict the findings recorded therein. On the contrary, the reports consistently indicate that the disputed land continues to be recorded as Government land and that the petitioner has failed to establish the factual basis necessary for correction of the Record-of-Rights. There is, therefore, no sufficient ground for this Court to disregard the reports of the Assistant Settlement Officer and the Tahasildar.

23-C. Finding: In view of the foregoing analysis, the reports submitted by the Assistant Settlement Officer and the Tahasildar do not support the claim of the petitioner. The issue is, accordingly, answered in the negative.

24. Whether the resumption proceeding initiated under the Govt. Grants Act, 1895 has any bearing upon the present revision petition?

24-A. Analysis: The original resumption file produced before this Court assumes considerable significance. The order-sheet dated 30.12.1997 records that the Tahasildar, Bhubaneswar received Government instructions through the Additional District Magistrate, Khurda directing initiation of resumption proceedings in respect of the lease granted to Shri Prasanna

Kumar Mitra. The order-sheet further reveals that the Government decision was based upon an enquiry into lease cases sanctioned in Bhubaneswar Tahasil, wherein certain irregularities were noticed. It is further recorded in the notesheet dated 30.12.1997 that *"The Government have also vested power of resumption with the Tahasildar in respect of land sanctioned under the Govt. Grants Act, 1895."*

24-B. The Tahasildar, however, observed that although the enquiry suggested review of the lease, no review order had been passed by the competent authority and expressed the view that, unless the lease was first reviewed or annulled by the competent revisional authority, immediate resumption might give rise to unnecessary legal complications and litigation. Nevertheless, acting upon the Government instructions, he directed issuance of notice to the lessee under the Govt. Grants Act, 1895, calling upon him to show cause why the land should not be resumed. The subsequent order-sheet dated 16.06.1998 records the appearance of the lessee through his Advocate and grant of time to file objection, and the matter was posted to 30.06.1998.

24-C. Thereafter, the records are completely silent. No order resuming the land has been produced before this Court. Equally, no order dropping or otherwise concluding the proceeding has been brought on record. Thus, the statutory proceeding initiated under the Govt. Grants Act, 1895 appears to have remained incomplete. The existence of such pending/inconclusive proceedings assumes significance because the petitioner's claim flows from the original Government lease itself. Until the status of the lease is finally settled by the competent authority, any determination in the present revision touching upon the effect or validity of such lease would be premature.

24-D. Finding: In view of the foregoing analysis, the incomplete resumption proceeding under the Govt. Grants Act, 1895 has a material bearing upon the present revision petition and cannot be ignored while examining the petitioner's claim founded upon the said Government lease. The issue is, accordingly, answered in the affirmative.

25. At this stage, it is also necessary to notice another important aspect emerging from the records relating to the original Government lease. It is evident that the lease granted in favour of Shri Prasanna Kumar Mitra was subject to specific conditions prohibiting transfer of the leasehold land under section 2 of Govt. Grants Act, 1895. In the connected matter in O.S.S Case No. 48 of 2018relating to the same leasehold property, it has already been found from the records that Shri Prasanna Kumar Mitra executed Registered Sale Deed No.2750 dated 27.12.1989 in favour of Shri Chhanda Charan Mohanty in respect of a portion of the leasehold land within about three months from the date of grant of the lease, which is completely violating section 2 and 3 of Govt. Grants Act, 1895. Such transfer constituted a clear breach of the fundamental conditions of the Government lease as well as the statutory restrictions governing transfer of Government leasehold land under Govt. Grants Act, 1895. Once the original lessee committed breach of the essential conditions of the lease, the lease became liable for action under the Govt. Grants Act, 1895, which empowers the competent authority to resume Government land settled under the Act upon violation of the conditions of settlement, after following the prescribed procedure and affording reasonable opportunity of hearing. The initiation of resumption proceedings against the original lessee, as reflected from the original records, is consistent with the statutory consequences flowing from such breach.

26. The original lease mutation Record-of-Rights produced before this Court also throws considerable light on the nature and conditions of the Government grant. The lease mutation Record-of-Rights reveals that upon settlement of the Government land, the kisam of the land was changed from “Patita” to “Sarada-III”, indicating that the settlement was made for agricultural purposes. The said Record-of-Rights further contains a specific entry in the Special Remarks column stipulating that the leasehold land shall not be transferred within a period of ten years from the date of sanction of the lease. The records further disclose that, notwithstanding the aforesaid condition, Shri Prasanna Kumar Mitra, the original lessee, executed Registered Sale Deed No.2750 dated 27.12.1989 in favour of Shri Chhanda Charan Mohanty in respect of a portion of the leasehold land within about three months from the date of grant of the lease. Prima facie, such alienation was contrary to the express condition incorporated in the Government grant. Under Sections 2 and 3 of the Govt. Grants Act, 1895, the rights and obligations of the Government and the grantee are governed

by the terms of the grant itself. Consequently, the apparent breach of the non-alienation condition rendered the lease liable to appropriate action by the competent authority in accordance with the terms of the grant and the provisions of the Govt. Grants Act, 1895. However, this Court refrains from recording any final adjudication on the validity or legal consequences of such breach, as those issues fall within the jurisdiction of the competent authority under the said Act.

27. The significance of the above violation extends beyond the first transaction itself. The petitioner's claim is not founded upon an independent grant from the Government but is entirely derivative, tracing its origin to the rights claimed by the original lessee. Where the very foundation of the title is affected by breach of the conditions of the Government lease, every subsequent transfer made on the strength of such lease necessarily remains subject to the legal consequences arising from that initial breach. Unless the competent authority regularises the violation or otherwise recognises the continuance of the leasehold rights in accordance with law, the subsequent purchasers cannot claim a better or higher right than that possessed by the original lessee. Consequently, the successive registered Sale deeds relied upon by the petitioner cannot, by themselves, confer an enforceable right warranting correction of the finally published Record-of-Rights, particularly when the original lease itself had become liable for statutory action under section 2 & 3 of Govt. Grants Act, 1895 and the records disclose initiation of such proceedings.

28. Whether this Court can direct correction of the Record-of-Rights in favour of the petitioner while the proceedings under the Govt. Grants Act, 1895 remain inconclusive?

28-A. Analysis: The jurisdiction exercised by this Court under Section 15(b) of the Odisha Survey & Settlement Act is a limited revisional jurisdiction. The scope of enquiry is confined to examining whether the finally published Record-of-Rights correctly reflects the lawful status of the land on the basis of legally admissible materials. The Settlement Authority is not vested with the powers of the competent authority under the Govt. Grants Act, 1895 to decide issues relating to continuation, cancellation or resumption of Government leases.

28-B. If this Court were to direct correction of the Record-of-Rights in favour of the petitioner notwithstanding the incomplete statutory proceedings under the Govt. Grants Act, 1895, it would indirectly determine the effect of the original Government lease, an issue that properly falls within the jurisdiction of the competent authority under the said Act. Such an exercise would amount to going beyond the jurisdiction conferred under Section 15(b) of the Odisha Survey & Settlement Act. Judicial discipline requires that where a special statute vests a particular question in a designated authority, another authority exercising a different jurisdiction should refrain from recording findings that may prejudge or render infructuous the statutory proceedings before the competent authority.

28-C. In the above circumstances, while the proceedings concerning the original Government lease remain inconclusive, this Court cannot appropriately grant the relief of correction of the Record-of-Rights on the basis of the petitioner's claim, as doing so may have the effect of prejudging the issues falling for determination before the competent authority under the Govt. Grants Act, 1895.

28-D. In the present case, therefore, the petitioner cannot claim an independent or superior right merely on the strength of subsequent registered Sale deeds when the very source of the claimed title is a Government grant containing conditions regulating alienation and when the original lease itself became the subject matter of resumption proceedings. The subsequent purchasers derive their claim only through the original lessee and cannot, merely by successive registered sale deed, acquire a better title than what was lawfully available to their predecessor, particularly where the foundational grant and compliance with its conditions remain to be examined by the competent authority.

28-E. Thus, this Court, while exercising jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act, cannot treat a chain of mutation entries or registered Sale deeds as, by themselves, sufficient to establish an indefeasible title contrary to the terms and legal incidents of the original Government grant. Nor can the present proceeding be converted into a

proceeding for adjudication of the validity, cancellation or resumption of the Government lease. Those questions must remain open for determination by the competent authority in accordance with the Government Grants Act, 1895 and the terms of the original grant.

28-F. For the foregoing reasons, this Court is of the considered opinion that no correction of the Record-of-Rights can be directed in favour of the petitioner at this stage while the proceedings concerning the original Government lease remain inconclusive. The issue is, accordingly, answered in the negative.

29. Whether the petitioner has established that the finally published Hal Record-of-Rights suffers from any legal infirmity warranting interference by this Court?

29-A. Analysis: The Record-of-Rights prepared during the settlement operation carries a presumption of correctness unless displaced by reliable and convincing evidence. In the present case, the petitioner has failed to rebut such presumption. The official reports consistently support the Government entry, while the petitioner has not produced sufficient material to enable precise identification of the land claimed by him.

29-B. Further, the original Government lease, from which the petitioner claims derivative title, became the subject matter of statutory resumption proceedings under the Govt. Grants Act, 1895, which remaininconclusive. There is also no material on record to establish that the competent authority ever regularised the subsequent transactions or otherwise recognised the petitioner's claim. The cumulative effect of these circumstances does not furnish any legally sustainable basis for disturbing the finally published Hal Record-of-Rights.

29-C. Finding: In view of the foregoing analysis, the petitioner has failed to establish any legal infirmity in the finally published Hal Record-of-Rights warranting interference by this Court. The issue is, accordingly, answered in the negative.

30. From the foregoing discussion, this Court records the following conclusions:-

i) The petitioner has failed to establish lawful and identifiable possession over the disputed land.

ii) The Assistant Settlement Officer as well as the Tahasildar have consistently reported that the disputed land continues to stand recorded as Government land under AbadjogyaAnabadiKhata.

iii) The petitioner has failed to produce the land map and other supporting documents necessary for proper identification of the land claimed.

iv) The original records reveal that statutory proceedings under Govt. Grants Act, 1895 were initiated against the original lessee pursuant to Government directions.

v) The said proceedings remained inconclusive, as no final order either resuming the lease or dropping the proceeding has been produced before this Court.

vi) During examination of the original lease file, this Court has noticed that the office notings of the Tahasildar, Bhubaneswar dated **06.10.1988 and 26.12.1988**, relating to reopening of the lease case for consideration of sanction in favour of the original lessee in **Mouza-Gothapatna instead of Mouza-Shyamasundarpur**, were recorded on Government Press printed sheets bearing the printing date **08.05.1989**. The said chronological inconsistency raises a serious doubt regarding the genuineness of those particular note sheets and requires examination by the competent authority in accordance with law. This Court, however, does not record any conclusive finding regarding interpolation or fabrication of the records.

vii) The original lease mutation Record-of-Rights is recorded with *Swatwa***"DakhalSatwa Sunya"**. In view of such recorded status, any subsequent transaction in respect of the said leasehold land was required to be examined with reference to the applicable revenue laws, rules and the requirement of permission, if any, from the competent

authority. The petitioner has not produced any satisfactory material showing that the subsequent transfer was preceded by or supported by the requisite permission of the competent authority.

viii) It is further disclosed thatin the connected matter in O.S.S Case No. 48 of 2018relating to the same leasehold property that Shri Prasanna Kumar Mitra, the original lessee, executed **Registered Sale Deed No.2750 dated 27.12.1989** in favour of Shri Chhanda Charan Mohanty in respect of a portion of the leasehold land within about three months of the grant of the lease. Such subsequent alienation, in the background of the *Swatwa* recorded as **"DakhalSatwa Sunya"** and in the absence of material showing prior permission of the competent authority, raises a serious question regarding the legality of the transaction under the applicable revenue laws and rules.

ix) The initiation of resumption proceedings against the original lessee, as reflected from the original records, assumes significance in the above background and indicates that the legality of the original lease and the subsequent transactions required examination by the competent authority.

x) In view of the limited jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act, this Court cannot adjudicate upon the validity or continuance of the Government lease or grant correction of the Record-of-Rights in a manner that would prejudge matters falling within the jurisdiction of the competent authority under the **Govt. Grants Act, 1895**.

xi) Consequently, the petitioner has failed to establish any legal or factual ground warranting interference with the finally published **Hal Record-of-Rights**.

xii) In view of the limited jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act, this Court cannot adjudicate upon the validity or continuance of the Government lease or grant correction of the Record-of-Rights in a manner that would prejudge matters falling within the jurisdiction of the competent authority under the Govt. Grants Act, 1895.

xiii) Consequently, the petitioner has failed to establish any legal or factual ground warranting interference with the finally published Hal Record-of-Rights.

31. Having bestowed my consideration to the pleadings of the petitioner, the materials available on record, the reports submitted by the Assistant Settlement Officer, Major Settlement, Cuttack, the Tahasildar, Bhubaneswar, the original lease file, mutation records, settlement records and the connected resumption proceedings, this Court proceeds to record its final conclusions. It is an admitted position that the disputed land originally formed part of Sabik Khata No.201, Sabik Plot No.53 of Mouza-Gothapatna recorded under Government AnabadiKhata with Kisam "PuratanPatita." The corresponding Hal Record has been finally published under Hal Khata No.684, Hal Plot No.1307 with Kisam "Patita" under Government AbadjogyaAnabadiKhata. The petitioner traces his claim through a series of registered Sale deedscommencing from the Government lease granted in favour of Shri Prasanna Kumar Mitra. His prayer is founded upon the contention that such registered Sale deeds have vested him with lawful title and possession over the disputed land.

32. However, a careful scrutiny of the materials on record does not support such contention. The Assistant Settlement Officer has consistently reported that the Hal Record correctly reflects the Government ownership over the disputed land. Likewise, the Tahasildar, Bhubaneswar has reiterated that the Sabik and Hal Records continue to stand in Government Khata. Significantly, the Tahasildar has also reported that the petitioner failed to produce the map and other supporting documents necessary for proper identification of the purchased land and, therefore, the possession claimed by him could not be verified during field enquiry. This finding has remained unrebutted by any cogent documentary evidence. The inability of the petitioner to establish the identity and possession of the land sought to be corrected is by itself sufficient to disentitle him to the relief claimed in a proceeding under Section 15(b) of the Odisha Survey & Settlement Act.

33. The original lease records produced before this Court further reveal that proceedings under Govt. Grants Act, 1895 had been initiated against the original lessee pursuant to Government directions issued after enquiry into lease cases sanctioned in Bhubaneswar Tahasil. The order-sheet dated 30.12.1997 clearly records the receipt of Government instructions for initiation of resumption

proceedings. The subsequent order-sheet dated 16.06.1998 reveals that the original lessee entered appearance through his learned Advocate and sought time to file objection. The matter was adjourned to 30.06.1998. Beyond that stage, however, the records are completely silent. No final order resuming the lease has been produced. Similarly, no order dropping the proceeding or confirming continuation of the lease has been brought to the notice of this Court. The inevitable conclusion is that the statutory proceeding initiated under Govt. Grants Act, 1895 remained inconclusive.

34. The present proceeding has been instituted under Section 15(b) of the Odisha Survey & Settlement Act, 1958. The scope of revisional jurisdiction under the said provision is confined to examining the correctness, legality and propriety of entries made in the finally published Record-of-Rights. This Court is neither exercising the powers of the competent authority under Govt. Grants Act, 1895 nor sitting in appeal over proceedings initiated thereunder. The questions relating to:-

- Continuance of government lease,
- Breach of lease conditions,
- Legality of alienation,
- Resumption of government land, and
- Consequences flowing therefrom,

all within the exclusive domain of the authority empowered under the Govt. Grants Act, 1895. Therefore, this Court cannot, while exercising limited revisional jurisdiction under Section 15(b), return any finding which may have the effect of determining or prejudicing the issues arising in the pending statutory proceeding.

35. The petitioner has prayed for correction of the finally published Record-of-Rights by deleting the Government entry and substituting his own name. Such relief can be granted only when the petitioner successfully establishes:-

- Lawful entitlement over the land;
- Identifiable possession over the corresponding hal plot;
- Convincing evidence showing that the existing entry is erroneous; and
- Absence of any legal impediment affecting the claimed title.

36. In the present case, none of these requirements stand satisfied. The petitioner has failed to establish identifiable possession. The Revenue Authorities have consistently supported the Government entry. The land continues to stand recorded under Government AbadjogyaAnabadiKhata. Further, proceedings affecting the very foundation of the petitioner's claim, namely the original Government lease, remain inconclusive before the competent authority. In these circumstances, directing correction of the Record-of-Rights would not only be unsupported by the materials available on record but would also amount to indirectly conferring recognition upon a claim which is yet to attain finality before the competent authority. Such a course is neither legally permissible nor warranted in exercise of revisional jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act.

37. Accordingly, this Court records the following findings:-

I. The petitioner has failed to establish any lawful ground for correction of the finally published Hal Record-of-Rights.

II. The petitioner has failed to establish identifiable possession over the disputed Hal Plot.

III. The reports submitted by the Assistant Settlement Officer and the Tahasildar consistently support continuation of the Government entry.

IV. The disputed land continues to stand recorded under Government AbadjogyaAnabadiKhata.

V. The records reveal that proceedings under the Govt. Grants Act, 1895 had been initiated in respect of the original lease but remained inconclusive without any final adjudication.

VI. During examination of the original lease file, this Court has noticed that the office notings of the Tahasildar, Bhubaneswar dated 06.10.1988 and 26.12.1988, relating to reopening of the lease case for consideration of sanction in favour of the original lessee in Mouza-Gothapatna instead of Mouza-Shyamasundarpur, were recorded on Government Press printed sheets bearing the printing date 08.05.1989. The said chronological

inconsistency raises a serious doubt regarding the genuineness of those particular note sheets and requires examination by the competent authority in accordance with law. This Court, however, does not record any conclusive finding regarding interpolation or fabrication of the records.

VII. The original lease mutation Record-of-Rights is recorded with *Swatwa* "DakhalSatwa Sunya". In view of such recorded status, any subsequent transaction in respect of the said leasehold land was required to be examined with reference to the applicable revenue laws, rules and the requirement of permission, if any, from the competent authority. The petitioner has not produced any satisfactory material showing that the subsequent transfer was preceded by or supported by the requisite permission of the competent authority.

VIII. It is further disclosed that in the connected matter in O.S.S Case No. 48 of 2018relating to the same leasehold property, Shri Prasanna Kumar Mitra, the original lessee, executed Registered Sale Deed No.2750 dated 27.12.1989 in favour of Shri Chhanda Charan Mohanty in respect of a portion of the leasehold land within about three months of the grant of the lease.So the lease conditions had already breached within three months of grant of the said lease. Such subsequent alienation, in the background of the *Swatwa* recorded as "DakhalSatwa Sunya" and in the absence of material showing prior permission of the competent authority, raises a serious question regarding the legality of the transaction under the applicable revenue laws and rules.

IX. The initiation of resumption proceedings against the original lessee, as reflected from the original records, assumes significance in the above background and indicates that the legality of the original lease, violation of lease conditions and the subsequent transactions required examination by the competent authority.

X. In view of the limited jurisdiction under Section 15(b) of the Odisha Survey & Settlement Act, this Court cannot adjudicate upon the validity

or continuance of the Government lease or grant correction of the Record-of-Rights in a manner that would prejudge matters falling within the jurisdiction of the competent authority under the Govt. Grants Act, 1895.

XI. Consequently, the petitioner has failed to establish any legal or factual ground warranting interference with the finally published Hal Record-of-Rights.

38. In view of the discussions and findings recorded hereinabove, this Court is of the considered opinion that the petitioner has failed to establish any legal or factual basis for correction of the finally published Hal Record-of-Rights under Section 15(b) of the Odisha Survey & Settlement Act, 1958.

Accordingly, the Revision Petition being devoid of merit is hereby **dismissed**.

39. The prayer of the petitioner for recording his name in respect of Hal Khata No.684, Hal Plot No.1307 measuring Ac.0.03852 decimal of Mouza-Gothapatna is hereby rejected. The finally published Hal Record-of-Rights shall remain unaltered.

40. It is further directed that the Secretary, Board of Revenue, Odisha shall address a D.O. Letter to the Collector, Khordha to direct the Tahasildar, Bhubaneswar to scrutinise the inconclusive resumption proceeding relating to the lease in question and similar cases, and, upon such scrutiny, take necessary action in accordance with law and place an appropriate report before the Collector, Khordha.

41. Original/Certified copy of documents filed be returned to the petitioner by keeping a photo copy of the same in the case record.

Pronounced the order in the open court today, i.e. on the 06thday of August, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Kataka

OSS Case No. 543 of 2024

Decided on 07.05.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Cuttack.)

Pratijna Mishra ..... **Petitioner**

-Versus-

Director of Estates & Ex-Officio &
Addl. Secretry to Govt.
G.A. Department & others ..... **Opp. Parties**

For the petitioner	...	Mr. Jalandhar Pradhan, Advocate
For Oposite Party No. 1	...	Mr. S.S. Das, Addl. Standing Counsel
For Opposite Party No. 2 & 3	...	Mr. K.K. Das, Standing Counsel
For Opposite Party No. 4 to 6	...	None

Orissa Survey & Settlement Act, 1958—Section 15(b)—Record-of-Rights—Correction of Area— Government Allotment—Leasehold to Freehold Conversion— G.A. Department Allotment—Registered Lease Deed and Conveyance Deed—Gharabari Kisam—Settlement Error—Succession through Relinquishment Deeds—Correction of Record-of-Rights and Map.

Held: The revision petition was **allowed**. The Board found that the petitioner's predecessor had been lawfully allotted **Ac.0.124 decimals** of land for residential purposes, which was subsequently converted from leasehold to freehold. The reduction of the area to **Ac.0.066 decimals** in the Hal ROR, with the remaining Ac.0.058 decimals shown separately in the name of the General Administration Department, was held to be an inadvertent settlement error unsupported by the original allotment records. As the entire **Ac.0.124 decimals** was physically available and in the petitioner's possession, and she had succeeded to the property through valid relinquishment deeds, the Board directed the **Tahasildar, Bhubaneswar to correct the ROR and map and record Ac.0.124 decimals exclusively in the petitioner's name under "Gharabari" kisam**.

D E C I S I O N

1. This revision case has been filed under Section 15(b) of the O.S.S Act, 1958 for correction of area Ac.0.124 dec instead of Ac.0.066 dec and the map also carved as per record & possession and accordingly a correct patta may be issued in favour of the present petitioner.

Schedule of Property

Mouza- Ghatikia, P.S.-Chandaka, Tahasil-Bhubaneswar, District-Khurda.

Sabik Parameter

Sabik Khata No.	Status	Plot No.	Area	Kisam
443	Anabadi	48(Part)	Ac.0.124 dec.	Patita

G.A Parameter

G.A drawing Plot No.	Drawing No.	Area
261	B/360	Ac.0.124 dec. (60'x90')

Hal Parameter

Hal Khata No.	Plot No.	Area	Kisam
1894	33	Ac.0.066dec. in place of Ac.0.124dec.	"Gharabari"

2. The suit land pertains to Mouza–Ghatikia, Tahasil–Bhubaneswar, District–Khordha, corresponding to Sabik Khata No. 443, Plot No. 48(P), area Ac. 0.124 decimals and Hal Khata No. 1894, Plot No. 33.

3. Originally, the land was allotted by the General Administration Department in favour of late Sri Soubhagya Prasad Mishra vide allotment order dated 27.09.1997 for residential purpose. A registered lease deed dated 31.10.1997 was executed accordingly. Possession of the land was handed over on 03.04.2001.

4. Subsequently, the land was converted from leasehold to freehold status vide registered conveyance deed dated 10.06.2005, and stitiban status was conferred.

5. During the last settlement operation, although the land was recorded in the name of the petitioner's husband, the following discrepancies occurred:

i) Area was incorrectly recorded as Ac. 0.066 decimals instead of Ac.0.124 decimals

ii) Kisam was recorded as "Patita" instead of "Gharabari"

6. The petitioner submits that she is in peaceful possession of the entire allotted area and has constructed boundary walls after due approval.After the death of her husband, the legal heirs executed registered deeds of relinquishment in favour of the petitioner.

7. The General Administration Department has confirmed that the suit land measuring Ac. 0.124 decimals (60' × 90') was duly allotted, subsequently converted to freehold status, is intended for residential use and therefore should be classified as "Gharabari," and that field verification establishes the full extent of the land is available.

8. The Settlement Officer has reported that the Sabik Khata No. 443, Plot No. 48, measuring Ac. 0.124 decimals, stands recorded as Anabadi with kisam "Patita," and the corresponding Hal Khata No. 1894, Plot No. 33, is recorded with stitiban status and kisam "Gharabari" in the name of Sri Soubhagya Prasad Mishra, S/o Sri Satyasundar Mishra.

9. Tahasildar Bhubaneswar reported that Sabik details of khata no 443,plot no 48(p),area Ac 23.530 with status Anabadi and kisamPuratanapatita and corresponding halror with halkhata no 1894,plot no 33,area 0.066 dec with kisam Patita recorded in the name Soubhagya prsasadmishra,S/o Satyasundar Mishra and halkhata no 2333,plot no 32,area Ac 0.058 with kisam Patita recorded in the name of GA department.The petitioner is in possession over the suit plot no 33 of an area Ac 0.066 dec and plot no 32 of an area Ac 0.058 dec total area Ac 0.124 dec by the way of sale deed no 5027 dated 20/10/1997.The area remains vacant land with a boundary wall.

10. Upon perusal of the case records, documents, and reports submitted by the concerned authorities, it is clearly established that the petitioner's predecessor was allotted Ac. 0.124 decimals of land, the full extent of the land is available in the field, the reduction of area in the Hal Record of Rights is erroneous, and the land, having been allotted for residential purpose, ought to be classified as "Gharabari."

11. Following questions arises in above regard;

i) Whether the area of the suit land requires correction?

ii) In whose name shall the land be recorded?

12. Answers to above questions is as follows;

i) From the allotment order issued by the General Administration Department, the registered lease deed, conveyance deed, and field verification reports, it is conclusively established that Late Sri Soubhagya Prasad Mishra was allotted land measuring Ac.0.124 decimals corresponding to G.A. drawing Plot No. 261, Drawing No.B/360 measuring 60' × 90'(Ac. 0.124 dec) vide registered lease deed no. 5027 dated 31.10.1997 and registered conveyance deed no 3556 dated 10.06.2005.

The reports of the General Administration Department, Settlement Officer, and Tahasildar uniformly establish that the entire extent of Ac.0.124 decimals is physically available on the spot and remains under possession of the petitioner. There is no material on record indicating any lawful reduction in area at any stage.

It further appears that during settlement operation, only Ac.0.066 decimals was reflected in Hal Plot No.33 while the remaining Ac.0.058 decimals was separately shown under Hal Plot No.32 in the name of the General Administration Department. Such bifurcation and reduction of area are found to be inadvertent settlement errors not supported by the original allotment records.

Since the original allotment, lease deed, conveyance deed, and possession records consistently recognize the petitioner's predecessor-in-interest as entitled to Ac.0.124 decimals, the reduction of area in the Hal Record of Rights is erroneous, arbitrary, and contrary to the documentary evidence on record.

Accordingly, this Authority holds that the recorded area of Ac.0.066 decimals in the Hal Record of Rights is incorrect and liable to be corrected to Ac.0.124 decimals so as to reflect the actual allotted extent and possession of the petitioner.

ii) This Authority is of the considered view that the land is liable to be recorded exclusively in the name of Smt. Pratijna Mishra, W/o Late Soubhagya Prasad Mishra, as she has lawfully succeeded to the property through valid relinquishment deeds executed by the remaining legal heirs of the original allottee. There exists no rival claim over the suit land and the petitioner is found to be in peaceful possession thereof. Hence, recording the land in her name would be proper, legal, and justified.

13. The Tahasildar, Bhubaneswar is therefore directed to record the suit land corresponding to petitioner's purchased area Ac.0.124dec.ofSabik Plot No. 48 (part) of SabikKhata No.443 corresponding to G.A. drawing Plot No.261, Drawing No.B/360, area 60'x90' (Ac.0.124dec.) corresponding to Hal Plot No.33, area Ac.0.124dec. of Hal Khata No.1894 in a separate Khata in "Gharabari" Kisam of Mouza- Ghatikia mentioned above in the schedule property in favour of the present petitioner following due process of correction of record of rights and map.

14. Send a copy of the order to the Tahasildar, Bhubaneswar for necessary compliance within a period of three (03) months from the date of receipt of the copy of this order.

15. Original / Certified copy of documents filed be returned to the petitioner by keeping a photo copy of the same in the case record.

Pronounced the order in the open court today, i.e. on the 7th day of May, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

OSS Case No. 401 of 2018

Decided on 23.04.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Cuttack.)

Umakanta Mishra ..... **Petitioner**

-Versus-

Tahasildar, Jatni & others ..... **Opp. Parties**

For the petitioner ... Laxmidhar Biswal, Advocate

For Opposite Party No. 1 & 2 ..... Mr. K.K. Das, Standing Counsel

For other Opposite Parties .... None

Orissa Survey & Settlement Act, 1958—Section 15(b)—Record-of-Rights—Inheritance—Hindu Succession Act, 1956—Class II Heir—Validity of Sale Deed—Transfer by Person Having No Title—Mutation and Conversion—Possession—Government Record under "Abad Jogya Anabadi"—Correction of Record-of-Rights.

Held: The revision petition was **dismissed**. The petitioner claimed title over **Ac.0.115 decimals** purchased from Damodar Jena, who claimed to have inherited the property of Kumari Raj Dei as her brother. However, the Tahasildar's legal heir report established that **Sanatan Mangaraj**, being the son of Raj Dei's predeceased sister Kunda Dei, was the lawful successor to her estate. Consequently, Damodar Jena had no lawful right, title or interest to transfer the land and the sale deed dated **22.07.1988** executed in favour of the petitioner was held invalid. The Board further held that possession, mutation or conversion proceedings could not confer title in the absence of a valid title. Accordingly, the petitioner's claim for recording the land in his name was rejected, while the Tahasildar was directed to take necessary action for recording the land in favour of the legally entitled heir following due procedure.

. **D E C I S I O N**

1. This revision case has been filed under Section 15(b) of the O.S.S Act, 1958 to record area of the Hal Plot No. 56, area Ac0.110 dec and Hal Plot No. 55, area Ac.0.005 dec out of Ac.0.120 dec in the name of the petitioner and convert the suit land from agricultural to Gharabari as per the OLR order.

2. The history of the case in a nut shell is that the revision case has been filed by the petitioner pertaining to following schedule of land:-

Schedule of Property

Mouza- Chaitan Prasad P.S.-Jatni, Tahasil-Jatni, District-Khordha.

Sabik Parameter

Sabik Khata No.	Plot No.	Area	Kisam	Name of tenant
29	5	Ac.0.115dec out of Ac.0.230 dec	"Sarad3"	Kumari Raj Dei

Hal Parameter

Hal Khata No.	Plot No.	Area	Kisam	Name of tenant
107	5655	Ac.0.110dec Ac.0.005 dec out of Ac.0.120 dec	"Sarad Un-Jalasechita-3"	Abada Jogya Anabadi

3. The brief history of the case land, as per the submissions made by the petitioner and the documents available on record, is that the land appertaining to SabikKhata No. 29, Sabik Plot No. 5, measuring an area of Ac.0.230 decimals, Kisam "Sarad3", stood recorded in the names of Kumari Raj Dei D/o:- Lachhaman Jena.After the death of Kumari Raj Dei, the opposite party No. 3, namely Damodar Jena, being her brother, inherited her property as a Class II heir under the Schedule of the Hindu Succession Act, 1956, there being no Class I heirs to succeed to the estate.

4. Thereafter, Damodar Jenahad transferred with an area of Ac.0.115 dec out of Ac.0.230 dec from Sabik Plot No. 5 SabikKhata No. 29 in favour of present petitioner Umakanta Mishra S/o:- Late Balabhadra Mishra vide R.S.D No. 1327 dated 22.07.1988. After purchase the suit land the petitioner convert the land from Agriculture land to Gharabari, homestead by filing an OLR U/s 8A case bearing No. 514/2006, and mutation case No. 1400/2006 and premium deposit thereof Rs.3500/-.

5. That during settlement operation the petitioner filed objection before the lower Settlement Authority. Accordingly the Settlement Authorities visited the spot and enquiry report was submitted and it is ascertained that the present petitioner is in peaceful possession over an area of Ac.0.115 dec but the Hal ROR published in the name of Govt. Of Odisha, bearing Hal Khata No. 107, Hal Plot No. 56 area Ac.0.110 dec and Hal Plot No. 55 area Ac.0.005 dec out of Ac.0.120 dec. Then petitioner filed this case for recording the suit land in his name.

6. The learned Standing Counsel for the State has appeared and represented Opposite Party Nos. 1 and 2, who are Government authorities. The learned Advocate for the petitioners was heard in the presence of the learned Standing Counsel for the State. The documents filed by the petitioners and the reports submitted by the Revenue field officials, which form part of the case record, have been carefully perused.

7. The Sabik and Hal status of the suit land, as submitted by the Assistant Settlement Officer, Record Room, Cuttack Major Settlement in the para-wise report, reveals that the Hal Plot No. 55 & 56 corresponding to Sabik Plot No. 5.In Khanapuri stage there was order to record Hal Plot No. 56 in the name of Umakanta Mishra by the Asst. Settlement Officer. In Rent Case No. 2471/12 the Asst. Settlement Officer pass order to record the sui land in the name of Govt. as “Abad JogyaAnabadi” Khata as the Sabik recorded tenant Kumari Raj Dei died before marriage and she had no legal heirs.

8. The Tahasildar, Jatni has submitted status report of the suit land in which he submitted that after field enquiry it is found that the petitioner is in peaceful possession over Hal Plot No. 55, 56measuring an area of Ac.0.120dec, Ac 0.110 dec under Hal Khata No. 107 corresponding to sabik plot no. 5, measuring an area of Ac 0.230 dec under sabikkhata no. 29 of mouza- Chaitana Prasad and presently lying vacant without any boundary wall.

9. The Tahasildar, Jatni has also submitted legal heir report Raj Dei, He submitted that Lachhaman Jena had two daughter namely Raj Dei and Kunda Dei. Raj Dei died unmarried and Kunda Dei died and she has one son namely SanatanMangaraj. Hence, SanatanMangaraj was the legal heirs of Raj Dei.

10. Upon careful consideration of the submissions made, documents on record, and reports of the Revenue Authorities, it is found that the claim of Damodar Jena as legal heir of late Kumari Raj Dei is not sustainable in law. The legal heir report clearly establishes that SanatanMangaraj, being the son of the predeceased sister (Kunda Dei), is the rightful successor to the estate of late Raj Dei.

11. Accordingly, the transfer of the suit land by Damodar Jena in favour of the petitioner vide R.S.D No. 1327 dated 22.07.1988 is invalid, as the transferor had no lawful right, title, or interest over the property. It is a settled principle that no valid title can pass from a person who himself has no title.

12. Though the petitioner has claimed possession over the suit land and has undertaken conversion and mutation proceedings, such actions do not confer ownership in absence of a valid title. The possession of the petitioner, even if accepted, cannot override the legal requirement of lawful ownership.

13. Further, the Hal Record-of-Rights reflects the land in the name of the Government under "Abad JogyaAnabadi" Khata.The suit land legally entitled should have been recorded in the name of person legally entitled being the ownership as the true inheritor of the property as per the genealogy report submitted by the Tahasildar. The Settlement Officer therefore should have applied mind to record the suit land accordingly in the name of the entitled person as per the actual true legal heirs of the deceased recorded tenant. As such the Tahasildar shall take needful action by following the due procedure of the rules.

14. In view of the above facts and circumstances, this Court is of the considered opinion that the petitioner has failed to establish any lawful claim over the suit land.

Accordingly, the case is hereby dismissed.

15. The original/certified copies of the documents filed by the petitioners be returned to them upon retaining photocopies of the same in the case record.

Pronounced the order in the open court today, i.e. on the 23rdday of April, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

OSS Case No. 739 of 2015

Decided on 02.04.2026

(Order by Shri Satyabrata Sahu, I A S.,
Member, Board of Revenue, Odisha,Cuttack.)

Sarifa Khatun & others ..... **Petitioners**

-Versus-

Asst. Settlement Officer, Bhubaneswar & others ..... **Opp. Parties**

For the petitioner ... None
For Opposite Party No. 1 & 2 ..... Mr. K.K. Das, Standing Counsel
For Opposite Party No. 3 & 4 .... None

Orissa Survey & Settlement Act, 1958—Section 15(b)—Record-of-Rights—Government Leasehold Land—Transfer of Leasehold Land—Waste Land Lease—Kisam "Chhota Jungle"—Forest Land—Forest (Conservation) Act, 1980—Change of Kisam—Sale Deed executed without conversion of leasehold status and permission of Competent Authority—Validity of Transfer.

Held: The revision petition was **dismissed**. The disputed land, originally Government land classified as **"Chhota Jungle"**, had been leased to the predecessor of the petitioner, who subsequently transferred **Ac.0.200 decimals** to the petitioner's husband through a registered sale deed without obtaining freehold status or the requisite permission of the competent Revenue Authority. The lease record being unavailable, the Board relied upon the reports of the Tahasildar, Assistant Settlement Officer and D.F.O. and found that the land continued to be forest land and was rightly recorded under **Kisam "Jungle"** in the Hal ROR. The Board further held that non-forest use or change of the forest classification could not be permitted without the prior approval of the Government of India under the **Forest (Conservation) Act, 1980**. As the leasehold land had not acquired transferable status and the required concurrence of the competent Revenue Authority had not been obtained, the sale deed dated 16.01.1995 was held to be **ab initio void and inoperative**. Accordingly, the petitioners' claim for recording the land in their favour was rejected.

DECISION

1. This revision case has been filed by the petitioner under Section 15(b) of the O.S.S Act, 1958 to prepare the record of right (ROR) in respect of mutation Khata No. 645/365 Plot No. 2081/3278/5084 with Ac.0.200 dec of Mouza- Andharua, Ps:- Chandaka, Tahasil- Bhubaneswar dist:- Khurda in favor of the petitioner.

2. The history of the case in a nut shell is that the revision case has been filed by the petitioner pertaining to following schedule of land:-

Schedule of Land

Mouza- Andharua, P.S.-Chandaka, Tahasil- Bhubaneswar, District- Khurda.

As per Sabik ROR

Sabik Kha	Sabik Mutation Khata No.	Sabik Mutation Plot No.	Area	Kisam	Name of tenant
645/15	645/152	2081/3278	Ac.5.000 dec	Bajefasal	Rajkishora Das
645/36	645/365	2081/3278/5084	Ac.0.200 dec	Bajefasal	TaherUddin Khan

The above Sabik suit land corresponding to following Hal Khata :

As per Hal ROR

Hal Khata No.	Hal Plot No.	Area	Kisam	Name of tenant
2076	4214 4215	Ac.0.100 dec Ac.0.100dec	Chhota Jungle	Abad Jogya Anabadi

3. The brief history of the case land as per the submission by the petitioner and documents available in the case is that,originally the suit land i.eSabikKhata No. 805 Sabik Plot No. 2081 area Ac.34.080 deckisam “Chhota Jungle” stood recorded in the name of Govt. in”Anabadi” Khata. One RajKishor Das S/o:-Dijabara Das get Ac.5.000 dec land lease from state government from the Sabik Plot No. 2081 vide W.L.L case No. 864/77. Raj Kishor Das mutated the suit land in his name vide Sabik Mutation Khata No. 645/152 Sabik Mutation Plot No. 2081/3278 area Ac.5.000 dec. kisam “Bajefasal” status of land was “DakhalSwataSunya”.

4. Thereafter, Raj Kishor Das had executed General Power of Attorney for the same suit land in favour Sanjay Kuanr S/o:- DurgaCharanKuanrvide G.P.A No. 7 dated 13.01.1995. Further, Sanjay Kuanr, the attorney holder of Raj Kishor Das, had sold an area of Ac.0.200 dec from Sabik Plot No. 2081/3278 in Sabik Mutation Khata No. 645/152 to oneTaherUddin Khan vide R.S.D No. 145 dated 16.01.1995. After purchase of the suit land,TaherUddin Khan filed mutation case before the Tahasildarfor recording the same in his name vide Mutation Case No. 152/96. Then a mutation ROR was issued in the name of TaherUddin Khan videSabik Mutation Khata No. 645/365Sabik Mutation Plot No. 2081/3278/5084with area of Ac.0.200 dechaving kisam “Bajefasal” with status “DakhalSwataSunya”.

5. The TaherUddin Khan died in the meantime leaving beind the petitioners as his successor. In the last settlement operation, present petitioners appeared before the settlement authority and producedthe documents. The Settlement Authority prepared Yadast in the name of petitioners and issued parcha in favour of the petitioners vide not final Khata No. 2441 Plot No. 4214 & 4215.

6. That, in a Rent Case No. 7642/13, the Settlement Authority recorded the suit land i.e Hal Plot No. 4214 & 4215 in the name of Govt in “Abad JogyaAnabadi” Khata. Thereafter, the petitioner approached the Hon’ble High Court by filing W.P(c) No. 14642/2014 for direction to the Settlement Officer to prepare the ROR on the basis of the Yadast.

7. That, in the meanwhile, the settlement operation of the Mouza had ended and on the submissions of the state counsel, Hon’ble High Court disposed off the writ application and direction was given to the petitioner to file the Revision Case before this court. Then the petitioners filed this case with the prayer to record the suit land in their name.

8. The learned Standing Counsel for the State has represented the O.P. No.1 & 2 in this case who are Govt. authorities. Heard the petitioner in presence of the learned Standing Counsel for the State and gone through the documents filed by the petitioner and the reports submitted by the Revenue field officials and D.F.O, Chandaka Division, Bhubaneswar, which are kept in the case record.

9. The Sabik& Hal status of the suit land submitted by the Asst. Settlement Officer, Record Room of Cuttack Major Settlement in the para- wise report shows that the SabikKhata No. 805,Sabik Plot No. 4214 with an area of Ac.34.080dec Kissam "Chhota Jungle" recorded in the name of Govt as "Anabadi" khatawhich corresponds to Hal Khata No.2876 in Hal plot No. 4214with an area Hect.0.0405with Kissam "ChhotaJungle"&also in Hal Plot No. 4215with an area of Hect.0.0405with Kissam "ChhotaJungle"recorded in the name of Govtin "Abad JogyaAnabadi" khata of suit Mouza- Andharua on the basis of order passed by the Asst. Settlement Officer in Rent Case No. 7642/13.

10. The Tahasildar, Bhubaneswar mentioned in his enquiry report that the W.L Case No. 864/1977 is presently not traceable in the record room section.

11. Further, he stated that the kisam of Govt. Land inSabik Plot No. 2081, Mouza- Andharua was ChhotaJungle before Settlement of lease. After sanction of lease, ROR was corrected vide Sabik lease Khata No. 645/152, Sabik lease Plot No. 2081/ 3278 having kisam- BajeFasal with the area of Ac.5.000dec in "DakhalaSatwaSunya" Status in favour of Rajkishor Das S/o Dijabara Das.

12. Moreover, thelessee, Rajkishor Das S/o Dijabara Dasexecuted a power of attorney in favourSanjay Kuanra. The Sanjay Kuanrahad sold out an area of Ac.0.200dec out of allotted lease area Ac. 5.000dec to the TaherUddin Khan (Applicant's Husband) Vide RSD No 145 Dt. 16.01.1995 after 10 years from the grant of lease.

13. Regarding W.L. Case No. 864/1977, the Tahasildar, Bhubaneswar mentioned that, neither the lease settlement has been examined by initiating a revision case U/s 7-A (3) of OGLS Act, 1962 by ADM, Bhubaneswar in compliance to the order of Hon'ble High Court, Odisha passed in OJC No. 9449/1993 SaratSahu –vrs- State nor resumed to Govt. Khata U/S 3B of OGLS Act, 1962 by the Tahasildar.

14. The D.F.O, Chandaka Wildlife Division, Bhubaneswar vide his Letter No. 686/3WL (Misc)-/2026 dated 28.01.2026 has reported that

a. That, the kissam of suit land over Hal Plot No. 4214 & 4215, Khata No. 2876, Mouza: Andharua, PS: Chandaka, Tahasil Bhubaneswar, Dist: Khordha is "Jungle" as per Hal settlement record.

b. Prior approval of Government of India, Ministry of Environment, Forest and Climate Change is mandatory as per provision of Forest (Conservation) Act, 1980 for any non-forest use of forest kissam land with effect from date of Promulgation of the Act. i.e. 25.10.1980.

15. From the joint verification report of Tahasildar, Bhubaneswar & DFO, Chandaka states that the Sabik main Plot No. 2081as per 1962 settlement was"Chota Jungle" and the Hal KhataNo. 2876 Hal Plot No. 4214 & 4215 is "Jungle".

16. Inthismatter,thefollowingissuesneedstobe examined.

A. Was the Government land leased out in 1977 with a clear stipulation that transfer was not possible under any circumstances?

B. Whether the Kisam of the suit hal plot has been rightly recorded as Kisam 'Jungle' in the Hal ROR ?

17. The petitioner has not submitted the original/certified copy of lease documents. The Tahasildar, Bhubaneswar reported that the record of the Waste Land Lease Case No.864/1977related to this revision case is not traceable in the record section of Tahasil Office.So, in the absence of relevant documentary evidence purpose and condition of lease grantedin respect of lease hold land cannot be ascertained.As such, this court is going by the secondary evidence from the report of ASO, DFO and Tahasildar to decide this issue.

It is relevant that as per Section 6-A of the OLR Act, 1960, the transfer by a raiyat of any land settled with him for agriculture purposes under a permanent lease from Government shall be void, if it is made within a period of ten years from the date of such settlement after the commencement of the Amendment of OLR Act in the year 1976, without obtaining the prior permission of the Revenue Officer. Thus, it is clear that there is no automatic provision in the law, by which a lease- hold land can be trasferred after ten years. The Kisam of the land was "Chhota Jungle", but the then Tahasildar had corrected the R-O-R in favour of the lessee as "BajeFasal" without having the competency therefor or any lawful justification to do so.

The Govt. land leased out in favour of any landless person for Agricultural purposes should have been recorded in "PATADAR" status. This leasehold land cannot be transferred to anyone without the permission of the competent Revenue Authority.

18. The second question is answered as follows:- based on the classification "BajeFasal" granted in the lease patta to the lessee, Raj Kishor Dash, and in view of the report furnished by the D.F.O, Chandaka Division, Bhubaneswar, it has been reported that the suit land is classified as "Jungle".

19. It is noted that Hon'ble Apex Court in T.N Godavarman case had observed as follows:-

> **"The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forest and fore matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description cover all statutory recognized forests, whether designated as reserved,**

protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. The aspect has been made abundantly clear in the decisions of this Court in Ambica Quarry Works and ors. Versus Stare of Gujarat and ors. (1987 (1) SCC 213), Rura' Litigation and Entitlement Kendra versus State of U.P. (1989 Suppl. (1) SCC 504), and recently in the order dated 29th November, 1996 in W.P.(C) No.749/95 (Supreme Court Monitoring Committee vs. Mussorie Dehradun Development Authority and ors.). The earlier decision of this Court in State of Bihar Vs. Banshi Ram Modi and ors. (1985 (3) SCC 643) has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which clearly contrary to the decisions of this court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay."

20. The applicable law in this context is Orissa Survey & Settlement Act, 1958,just as otherquasi-judicial authorities perform their roles under the Act, this revisional

court also performs such duties and therefore is part of the legal process of 'recording by law'. Therefore, based on the D.F.O's report, I am of the opinion that the suit land is fit to be recorded as forest.

21. As per report of D.F.O, Chandaka Division, Bhubaneswar, "Prior approval of Govt. of India MOEF is mandatory as per the provisions of Forest Conservation Act, 1980 for any non-forest use of Forest Kisam Land with effect from 25.10.1980. Changing Hal Kisam of the suit land from Forest to Non-Forest is beyond the jurisdiction of this Court as per provision under the Forest Conservation Act, 1980. Hence, I am of the opinion that the Settlement authorities have rightly recorded the suit land of Hal Khata No. 2876, Hal Plot No.4214 area Ac.0.100 dec& Hal Plot No. 4215 area Ac.0.100dec in "AbadaJogyaAnabadi" status having Kisam- "Jungle" of Mouza- Andharua, Tahasil- Bhubaneswar, District- Khurda.

22. So far as the claim of the petitioners to be declared owner of the suit land on the basis of the R.S.D No. 145 dated 16.01.1995 is concerned, it is made clear on this pretext that the executionof the sale deed by the seller for transfer of the suit landwithout getting the status free hold from lease hold as well as without obtaining concurrence of the competent revenue authority, is ab initio void and inoperative in the eye of law as because the foundation of law enabling a person to execute a sale deed is wanting in absence of such transferable status and concurrence.

Hence, the case is dismissed with the above observations.

23. Original/Certified copy of documents filed be returned to the petitioner by keeping a photo copy of the same in the case record.

Pronounced the order in the open court today, i.e. on the 02nd day of April, 2026.

Sd/-
Member,
Board of Revenue, Odisha, Cuttack

R P Case No. 2548 of 1997

Decided on 04.07.2025

(Order by R. Vineel Krishna, I A S.,
Commissioner, Land Records and Settlement,
Board of Revenue, Odisha,Cuttack.)

Kusa Dalei (since dead) substituted by
Niranjan Dalei & another .....**Petitioners**

-Versus-

Subani Rout (since dead) substituted by
Janaki Rout & others ..... **Opp. Parties**

For the petitioners ... Mr. B. K. Choudhury, Advocate

Orissa Survey & Settlement Act, 1958 : Land Records and Settlement—Correction of Record of Rights—Sub-division of plots—Joint ancestral property—Disputed title and partition—Revision under Section 15(b) of the Orissa Survey & Settlement Act, 1958—Where a Sabik plot was sub-divided during settlement operations, the fractional plot number denotes a distinct sub-plot and cannot be treated as identical to the original plot by ignoring its denominator, in view of Para-81 of the Odisha Mutation Manual; where the petitioner's claim of exclusive title and mutation is founded on a sale deed executed by a co-sharer whose alleged exclusive share arises from an unproved oral or amicable partition, and the genealogy, partition and correspondence between Sabik and Hal plot numbers remain disputed, the property continues to retain its character as joint ancestral property with unascertained shares. A settlement authority cannot, in a revision petition seeking mere correction of the Record of Rights, adjudicate or confer exclusive title over a specific portion of undivided ancestral property so as to bypass a comprehensive determination of title. Accordingly, in view of the disputed title, unascertained shares, unproved partition and incongruous Sabik-Hal plot correspondence, the prayer for deletion of the names of the opposite parties.

D E C I S I O N

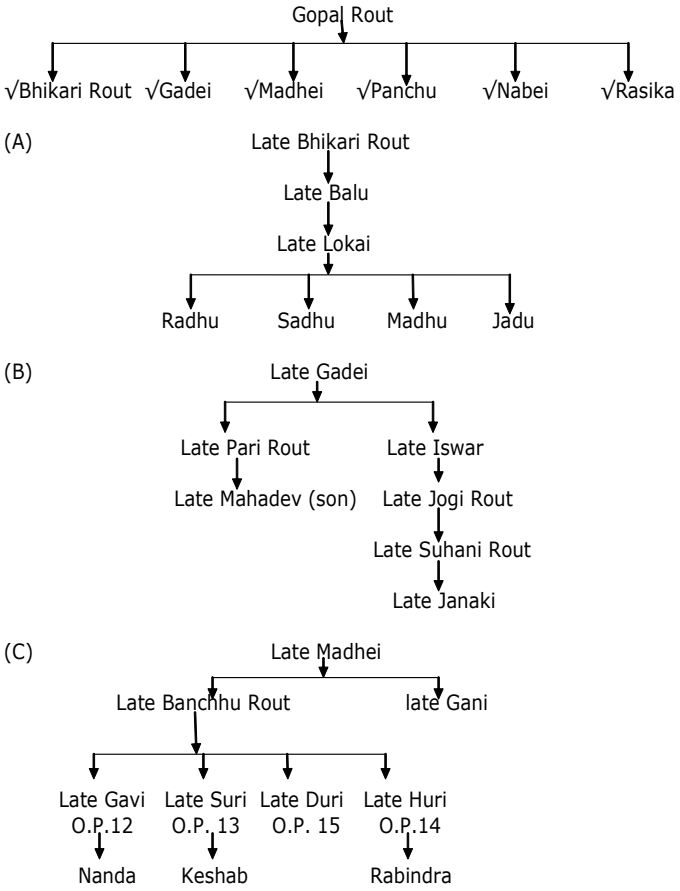
In Revision Petition No.2548/1997 filed U/s 15 (b) of the O.S.&S. Act,1958 (shortly called as the Act) relating to Mouza- Jamujhar, P.S. Barachana, Dist-Jajpur, the Petitioners, Niranjan Dalei & another have prayed for correction of impugned Hal RoR by recording the same in their favour while deleting the name of petitioners' vendor in respect of Hal Plot No.156 area Ac.0.140 dec. under Hal Khata No.84 corresponding to Sabik Plot No.99/201 area Ac.0.14 dec. out of Ac.0.36 dec. under Sabik Khata No.29 on the basis of purchase and possession vide RSD No.632 dated 06.04.1990.

2. Considering the available documents on records and nature of relief prayed for by the petitioners, the delay was condoned and the Revision Petition was taken up for hearing on merit.

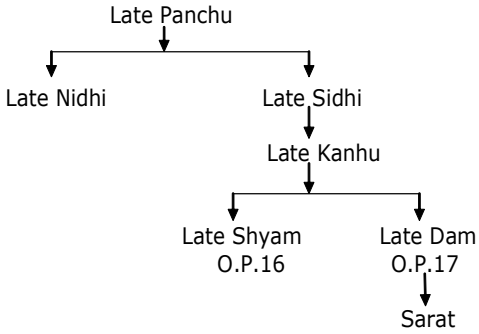
3. The Advocate for the petitioners was present and heard. Opp. Parties were absent despite service of notice. Hence, they were set ex-parte.

4. The Advocate for the petitioners in this revision petition has contended that the Hal RoR has been published in the name of all Opp. Parties except the Opp. Party No.1 (deceased and substituted in the petition) who is one of the co-sharer in respect of the said khata. The Hal RoR No.84 corresponding to Sabik Khata No.29 stood recorded in the name of Bhikari, Gadei, Madhei, Panchu, Nabei and Rasika who were the predecessors-in-interest of the Opp. Parties.

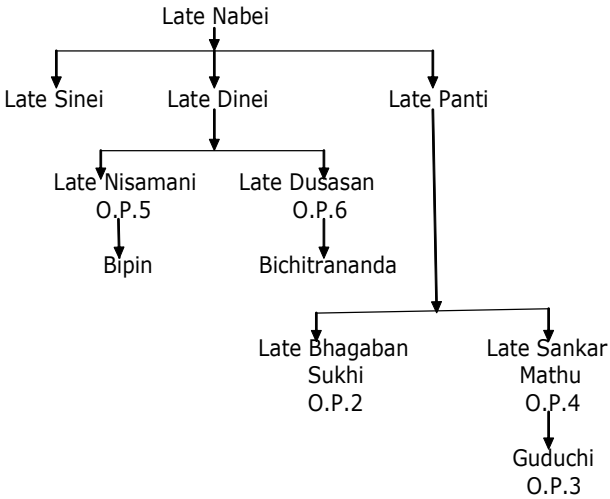
The genealogy has been given below for better appreciation.



(D)


Late Panchu
Late Nidhi
Late Sidhi
Late Kanhu
Late Shyam
O.P.16
Late Dam
O.P.17
Sarat

(E)


Late Nabei
Late Sinei
Late Dinei
Late Panti
Late Nisamani
O.P.5
Late Dusasan
O.P.6
Bipin
Bichitrananda
Late Bhagaban
Sukhi
O.P.2
Late Sankar
Mathu
O.P.4
Guduchi
O.P.3

(F)


Late Rasik
Late Hari
Late Fakir

The common ancestor Gopal had six sons namely Bhikari, Gadai, Madhei, Panchu, Nabei and Rasik who were recorded tenants in the 1910 Sabik RoR.

Gadei had two sons namely Pari and Iswar. Pari had one son Mahadev, who is one of the recorded tenant, in respect of the Hal Khata No.84. Iswar had a son namely Jogi. Jogi had only one daughter namely Sunani (O.P.1). After death of her father in the year 1972, she inherited her father's share in respect of the said Khata.

Prior to settlement, there was an amicable partition amongst the 6 sons of Gopal. Vide the partition, Sabik Plot No.99/201 Ac.0.36 dec. was allotted to Gadei Rout. Thereafter, father of Opp. Party No.1 namely Jogi Rout was in possession over his 50% share of the said plot.

During settlement operation, her name was not inserted in place of her father's name. During the last part of the settlement operation, she transferred the scheduled land to **Kusa Dalai by RSD No.632 dated 06.04.1990** and delivered possession to her vendee (petitioner). The petitioner was possessing the same by raising various crops. The petitioner was living outside the state. So, the petitioner could not take steps to mutate his name in the settlement operation. So, after publication of the ROR, the petitioner has filed this revision to record his name in the place of the Opp. Party No.1's father.

5. Para-wise report dated 29.11.2022 submitted by the Asst. Settlement Officer (Judicial), Cuttack and report regarding the genealogy of common ancestor of Gadei Rout submitted by Tahasildar, Darpan vide his letter No.5285 dated 10.12.2024 have been received.

6. Gone through the contention of the petition, the available documents filed by the petitioners, reports of the Asst. Settlement Officer (Judicial), Cuttack and Tahasildar, Darpan.

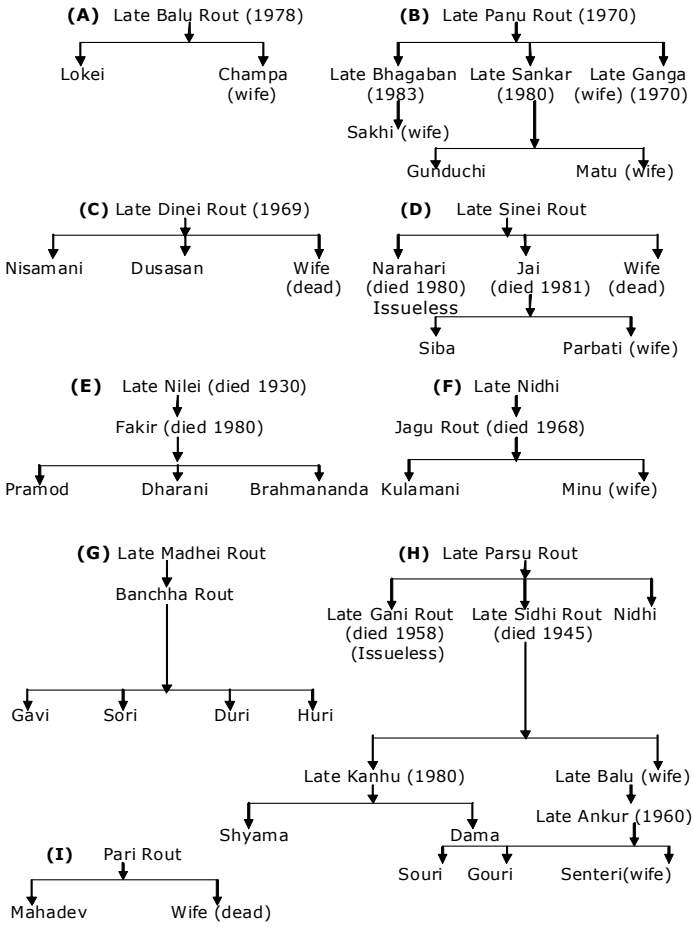
On perusal of the reports submitted by the Asst. Settlement Officer (Judicial), Cuttack, the following is ascertained;

i. **The Hal Plot No.156 corresponds to Sabik Plot No.201 (part)**.

ii. As per Yadast No.140 and as per Yadast No.6, the Sabik Khata 29 stood recorded in favour of Bhikari Rout, son of Gopala Rout, Panu Rout, son of Kusei Rout, Dinei Rout, Sinei Rout, sons of Nabei Rout, Nikei Rout, son of Nidhi Rout, Bancha Rout, Ganei Rout, sons of Madhei Rout, Sidhi Rout, son of Panchu Rout, **Pari Rout son of Gadei Rout**.

iii. The Jamabandi No.30 was opened in favour of Balu Rout, Panu Rout, sons of Kusei Rout, Dinei Rout, Sinei Rout, sons of Nabei Rout, Nilei Rout, son of Nidhi Rout, Banchu Rout, Gani Rout, sons of Madhei, Sidhi Rout, son of Panchu Rout and **Pari Rout, son of Gadei Rout**.

iv. The genealogy of sabik recorded tenants as submitted by S.O., Cuttack is as follows:



v. During Khanapuri, as per Yadast No.140 & 6, ASO has ordered to record Hal Plot No.156 in favour of Lokei Rout, son of Bali, Champa, wife of Balu, Sakhi, wife of Bhagaban, Gunduchi, wife of Sankar, Matu, wife of Sankar, Nisamani, Dusasan, sons of Dinei, Siba, son of Bai, Parbati, wife of Bai, Pramod, Dharani, Brahmananda, sons of Fakir, Kulamani, son of Jagu, Minu, wife of Jagu, Gavi, Sori, Duri, Huri, sons of Banchu, Sama, Dama, sons of Kanhu, Souri, Gouri, sons of Ankur, Sentari, wife of Akura, **Mahadev, son of Pari** in Stitiban status.

7. The following documents filed by the petitioners in order to substantiate their claim.

i) Certified copy of Hal RoR No.84

ii) Certified copy of Yadast No.140 & 8

iii) Certified copy of Amin Report No.22

iv) Certified copy of order in Objection Case No.881

v) Certified RSD No.632 dated 06.04.1990

vi) Certified copy of information report bearing No.2867 dated 03.04.2019.

8. Perused the original Hal RoR No.84 of Mouza- Jamajhar published on 08.02.1996 consisting of Hal Plot No.156 area Ac.0.20 dec., and Hal Plot No.22 area Ac,0.020 dec., Kisam-Sarada Anajalasechita-2 stands recorded in favour of Sakhi Rout, wife of Bhagaban Rout, Gunduchi Rout, D/o Sankar Rout, Matu Rout, wife of Sankar Rout, Nisamani Rout, Dusasan Rout, sons of Dinei Rout, Siba Rout, son of Bali Rout, Parbati Rout, wife of Bali Rout, Pramod Rout, Dharani Rout, Brahmananda Rout, sons of Fakir Rout, Gavi Rout, Sori Rout, Duri Rout, Guri Rout, D/o of Bancha Rout, Shyama Rout, Dama Rout, sons of Kanhu Rout, **Mahadev Rout son of Pari Rout** in Stitiban status.

9. Perused the Yadast No.140 wherein it is ascertained that Hal Plot **No.156 corresponds to Sabik Plot No.201** (P) under Sabik Khata No.29. ASO has ordered to record Hal Plot No.156 as per Yadast No.6.

Perused the Yadast No.8 wherein it is ascertained that Hal Plot No.10 corresponds to Sabik Plot No.37 (P) under Sabik Khata No.29. ASO has ordered to record Hal Plot no.10 as per Yadast No.6 which is not relevant to this case.

10. Perused the Amin Report No.22. Nothing contained therein is found to be relevant to the instant case.

Similarly, on perusal of certified copy of Objection Case No.881 it is ascertained that Tahasildar, Darpan (Objector) has filed this case for correction of kisam wherein the ASO has ordered that the kisam of all the plots be corrected as per decision taken and the same be recorded as Be-bandobast.

11. Perused the certified copy of RSD.

RSD No. & date	Name of the vendor	Name of the vendee	Transacted Area		
			Sabik Khata No.	Sabik Plot No.	Area
632 dated 06.04.1990	Subani Rout, wife of Bhalu Rout	Kusa Dalai, son of Gani Dalai	29 Mouza-Jamujhar	99/201 corresponds to Hal Plot No.156	Ac.0.36 (part) Ac.0.14

12. Perused the genealogy of common ancestor report submitted by the Tahasildar, Darpan wherein he has stated the following;

i) Gaei Rout died leaving behind Pari Rout and Iswar Rout as his successors.

ii) Pari Rout died leaving behind Mahadeb Rout as his successor.

iii) Mahadeb Rout died leaving behind Jairam Rout (adopted son) aged near about 92 years as his successor, however no documents regarding the adoption was produced.

iv) Iswar Rout died leaving behind Jogi Rout as his successor. Jogi Rout died leaving behind Subali Rout as his successor.

v) Subali Rout died leaving behind Amuli Rout (died issueless) and Janaki Rout (adopted daughter) aged about 51 years as her successor. However, no documents regarding the adoption was submitted.

13. Perused the flow chart of property / written note of argument on behalf of petitioners submitted by the Advocate for the petitioners which runs as under;

a) The father of the petitioners had purchased the suit land from Subani Rout (Opp. Party No.1) who was 50% shareholder of Opp. Party No.18 (Mahadeb Rout) who was one of the recorded tenant of Hal Khata No.84.

b) As per genealogy, Gopal Rout is the common ancestor who died leaving behind his six sons namely Bhikari, Gadei, Madhei, Panchu, Nabei and Rasik as his successors-in- interest who were the 1910 Sabik recorded tenants. The second son of Gopal namely Gadei died leaving behind his two sons namely, Pari and Iswar as his successors in interest. Pari died leaving behind his only son Mahadeb (O.P.18) as his successor-in-interest who died leaving behind his only son Jairam (O.P.18(a) as his succcessor in interest. The second son of Gadei namely Iswar died leaving behind his only son Jogi as his successor who also died leaving behind his only daughter Subani (O.P.No.1) as his successor-in-interest. Subani died leaving behind her only daughter Janaki (O.P.1(a) as her successor-in-interest.

c) The scheduled property appertaining to Plot No.156 Ac.0.14 dec. out of Ac.0.200 dec. under Khata No.84 of Mouza-Jamujhar which stands in the names of Sakhi Rout, wife of Bhagaban Rout and others was finally published by the settlement authority in the year 1996 in **Stitiban** status, corresponds to 1910 Sabik RoR Plot No.99/201 Ac.0.36 dec. under Sabik Khata No.29 which was recorded in the names of Bhikari Rout & 5 others and finally published in **Stitiban** status in the year 1910.

d) During the life time of six brothers, there was an **amicable family partition** amongst the six brothers. This partition was not reduced in

writing. However, as per said family partition, this suit land i.e. Sabik Plot No.99/201 Ac.0.36 dec. was allotted to second son of Gopal namely Gadei. As Gadei had two sons namely Pari and Iswar each got an area of Ac.0.18 dec. After death of Iswar, his son Jogi inherited the said Ac.0.18 dec. of land. After death of Jogi his only daughter Subani (o.p.1) inherited the same. While O.P.1 Subani was in separate and peaceful possession over said Ac.0.18 dec., she executed and registered the Plot No.99/201 Ac.0.14 dec. out of Ac.0.18 dec. out of Ac.0.36 dec. in favour of Kusa Dalei, the original petitioner who died during pendency of the revision. The mother of the deceased O.P.1, Jogi Rout was in possession over 50% share of Plot No.99/201 Ac.0.36 dec.

e) During the settlement operation came to the said mouza, the name of the O.P.1 could not be recorded in the Hal settlement RoR. Kusa Dalei purchased Ac.0.14 dec. out of Ac.0.18 dec. out of the total Ac.0.36 dec. from the O.P.No.1 and delivered physical possession. Since then the petitioner has been possessing the suit land peacefully without any hindrance by raising various crops thereon.

f) That, the Sabik Plot No.99/201 Ac.0.36 dec. was a big plot prepared in the Sabik settlement. Inorder to avoid the big number, it was used as Plot No.201. Especially in map, this short number with only its denominator is used. So, Plot No.99/201 is usually written as Plot No.201 by ignoring the numerator.

g) To substantiate their case, the petitioners have filed Yadast copy of Hal RoR and the purchased sale deed and Hal RoR in this revision to record their names.

14. In the above premises, the following issues have been framed: -

a) Whether Subani/Suhani belongs to the said branch.

b) Whether she is entitled to alienate the transacted property.

c) The discrepancies arising out of the Hal-Sabik plot correspondence.

While addressing the first issue, it has been ascertained that the name of the branch of Ishwar Rout, who, the Petitioner claims to be the son of Gadei Rout and brother of Pari Rout has not been mentioned anywhere in the Sabik RoR, Khanapuri records or the genealogy of the Settlement authorities. Although the report of the Tahasildar mentions the branch of Ishwar Rout, yet, no evidences on record corroborate to the recent findings of the Tahasildar. Hence, the genealogy of the Subani/ Suhani arising out of Ishwar branch stands disputed and cannot be logically concluded in the present circumstances and under the existing documents.

Pertaining to the second issue, it has been ascertained that the suit property is an ancestral property and was jointly recorded in favour of many tenants in the Sabik as shown supra. It is pertinent to mention here that the Sabik records did not record the name of the forefather of the petitioner's vendor, nor, has the same been mentioned during the Khanapuri stage or in the subsequently published Hal RoR No.84. Further, the claim of the Petitioner that one amicable partition deed was executed by the Sabik tenants also remains debatable in the absence of any corroborative evidences and documentary records to prove whether their was any amicable partition in the first place or not. Assuming, but not admitting, that there was such an amicable partition deed, it still remains to be proved that the transacted property pertained to the share of the vendor of the petitioner. There are no documents on record to prove that whether such partition took place in the first place or such partition was amicable or not.

Thirdly, it is seen that the while the land schedule in the plaint has mentioned the Sabik-Hal Plot Correspondence as Sabik Plot No.99/201 Ac.0.14 dec (out of Ac.0.36 dec) corresponds to Hal Plot No.156 Ac.0.14 dec (out of Ac.0.20 dec), the ASO report mentions Sabik Plot No.201(p) corresponds to Hal Plot No.156, the certified Yadast No.140 mentions that **Sabik Plot No.201 corresponds to** Hal Plot **No.156** (P) and the RSD No.632 dtd.06.04.1990 mentions the transacted plot as Sabik Plot No. 99/201 corresponds to Hal Plot No.156.

In lieu of the aforesaid discrepancy the Petitioner in his written submissions has contended that Sabik Plot No.99/201 Ac.0.36 dec. was a big plot prepared in the Sabik settlement and in order to avoid a big number it was written as 201(p). Only its

denominator is used. So, Plot No.99/201 is usually written as Plot No.201 by ignoring the numerator.

In the present context, law is well settled, according to the principles set in Para-81 of the Odisha Mutation Manual that:

> "*If a plot is sub-divided and formed into more than one plot each plot will be allotted number, the original number being allotted to the Plot retained in the original holding…*
>
> *… For instance, if plot number 190 is divided into two parts and the last plot number in the Village is 305, one part of the Plot number 190 will carry the original number 190 and the other part will be numbered 306. At the bottom of the relevant sheet of the village map, this new number should be shown in red ink as 190/306. In the record of rights this new plot should also be written as 190/306*."

Therefore, it cannot be assumed to mean that plot No.201 and 99/201 would be the same plot and that the Plot No.99/201 would have been usually written as Plot No.201 by ignoring the numerator as contended by the Petitioner.

In view of the disputed title in a joint ancestral property, unascertained share, undetermined partition deed and incongruous Hal-Sabik plot correspondence as summarized above, I am not inclined to consider the prayer of the Petitioner.

15. Resultantly, the Revision Petition is dismissed.

Pronounced the order in the open Court to-day, the 4th day of July, 2025.

Send the copy of this order to the Tahasildar, Darpan.

Sd/-
Commissioner, Land Records & Settlement,
Odisha, Cuttack.

R.P. Case No. 80 of 2022

Decided on 30.01.2026

(Order by Sri Nigamananda Panda, O A S.(SS),
Director, Consolidation, Odisha,Cuttack.)

Narayan Pani & another ... **Petitioners**

-Versus-

Jayadev Mishra & another ... **Opp. Parties**

Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 & Odisha Land Reforms (Second Amendment) Act, 2023 – Restoration of Sikim Status and Settlement of Raiyati Rights: Where the petitioners' ancestral heritable Sikim (sub-tenant) rights were recorded up to the Section 18 stage of consolidation proceedings but were unilaterally and fraudulently deleted by consolidation authorities in the final 1983 Record of Rights (ROR) without jurisdiction, a 39-year delay in challenging the entry will not bar revisionary relief. Relying on the Full Bench precedent in Daitary Swain v. Kartika Swain, Sikim rights are heritable and transferable; thus, subsequent alienation of the property by the landlord via Registered Sale Deed and subsequent mutation in favor of a third party confers no inherent right to defeat the sub-tenant's status. Under the Odisha Land Reforms (Second Amendment) Act, 2023, sub-tenants or their successors-in-interest are entitled to be declared raiyats, empowering the Tahasildar to correct the erroneous ROR, restore the petitioners' Sikim status ignoring subsequent transfers, and initiate suo motu proceedings to settle the suit land with the petitioners in raiyati status.

D E C I S I O N

1. This present Revision Petition has been filed by the Petitioners for recording of following schedule of property in their name on the basis of their forefathers' & fathers' right over that property as Sikim tenant.

Schedule of Property

District	Mouza	Khata No.		Plot No.	Area	Remarks
Puri	Alandapada	SabikKhata No. (RoR-1977)	339	1171/1734	Ac.0.07 decs	SikimKhata No. 21
		Consolidation Khata No. (RoR-1983)	194	1263	Ac.0.07 decs	
		Mutation Khata No.	511/154	1263	Ac.0.07 decs	

2. Heard the learned Advocate for the Petitioners,learned Advocate for Opposite Parties 1 & 2 respectively and the learned Addl. Standing Counsel for the State.

3. The prayer of the Petitioners is that, the property stated above was recorded in the name of late Bamadev Mishra, wherein Petitioners' forefathers have been recorded as SikimPraja under the said Jamindar& accordingly Settlement ROR of 1977 has been published. Since then the Petitioners' forefathers, and after them, the Petitioners being the successor-in-interest are possessing the land without any disturbance. During consolidation operation Sikim right of the Petitioners' forefathers' and their successors has been recorded upto Section-18 stage of consolidation proceedings. But, without any reason the final ROR has been wrongly published in the year 1983, wherein the said property has been exclusively recorded in the name of the Opposite Party No.1 , thereby deleting Sikim rights of the Petitioners ,which is heritable in nature.

4. Further, it is also stated that the Opposite party No.1 has transferred the said land in favour of Opposite party No.2 vide RSD No. 11542200635 dated 2.6.2022 and mutation ROR has been prepared in the name of Opposite party No.2.'

5. In support of their claims, the Petitioners have relied upon a full bench judgement passed by Hon'ble High Court in a case between Daitary Swain Vrs. Kartika Swain & others reported in 2019(ii)OLR(FB)171 wherein, it has been settled that Sikim rights are heritable and transferable. Relying on above judgement, the Petitioners claim for recording of their names as Sikim tenant in respect of the property in dispute, after correcting 1983 ROR and also the Mutation ROR.

6. On the other hand, the learned Advocate appearing on behalf of Opposite party No.1 & 2 challenged the Revision Petition on the ground of limitation and stated that the said revision is not maintainable , since Petitioners seek to correct the ROR published in the year 1983 , that is after a lapse of 39 years. They have relied upon two judgements reported in 2009 (sup-II) OLR-257 and another judgement in 2003 (Supp)OLR-882 which were pronounced by the Hon'ble High Court of Orissa. They have prayed for dismissal of the Revision Petition.

7. Heard the Counsels for both the parties, Addl.Standing Counsel for the State and perused all the documents filed in the aforesaid Revision Petition including the written notes of statement of Petitioners and written notes of arguments filed by the Advocates for OP No. 1 & OP No. 2 respectively.

8. As per the Odisha Land Reforms Act, 1960, the persons who are in personal cultivation of any land or use of any land as homestead and recorded as sub-tenants or under-raiyats in respect of such land in the record-of-rights under any law in force in any part of the State and their successor-in-interest can be declared as tenants subject to provisions of sub-section (5) to (8) of Section 4 of the Odisha Land Reforms Act, 1960.

9. That this Court is convinced, that the Petitioners' have a good and prima facie case in their favour for continuing as Sikim tenant in respect of the property in dispute, as wrong has been done by the Consolidation Authorities.

10. Government have brought out the enactment of the Odisha Land Reforms (Second Amendment) Act, 2023 which has come into force w.e.f. 29.12.2023. Accordingly, the persons who are in personal cultivation of any land or use of any land as homestead and recorded as sub-tenants or under-raiyats in respect of such land in the record-of-rights under any law in force in any part of the State and their successor-in-interest can be declared as tenants subject to provisions of sub-section (5) to (8) of Section 4 of the Odisha Land Reforms Act, 1960. Sub-tenants or under-raiyats or their successor-in-interest who

have earlier failed to make such application can now make application to Revenue Officer within two years of this Notification to be declared as raiyat.

11. Further, from time to time the Govt. have empowered the Tahasildar concerned to initiate suo motto cases and settle such lands with the sub-tenant or their successor in interest as per spot enquiry, possession and records available following principles of natural justice .

12. In the light of facts and circumstances, it can reasonably be concluded that the suit land has been fraudulently recorded in favour of OppositeParty No.1 i.e.exclusively in the nameof Zamindar by the consolidation authority unilaterally without having any jurisdiction in that respect.

13. Subsequent transfer of the case land in favour of the OP No.2 by a registered Sale Deed and receipt of an RoR on that basis does not confer any inherent right with the Opposite parties.

14. In the premises, I am inclined to allow the petition in its entirety and direct the Tahasildar,Satyabadi under District Puri to revise the order of mutation made in favour of Opposite parties and correct the Consolidation RoR in favour of the Petitioners i.esikim tenant and restore their Sikim status ignoring the fact of subsequent transactions, if any.

15. Thereafter, the Tahsildar,Satyabadi is also directed to initiate a suomotto Sikimcase and follow procedures as directed by Govt.as per Odisha Land Reforms (Amendment) Act,2023 and settle the suit land in favour of the Petitioners in raiyati status under intimation to the Addl.Sub-Collector,Puri, Collector,Puri and Court of Director Consolidation,Cuttack.

Pronounced in the open Court on this, the 30th day of January,2026

Sd/-
Director, Consolidation, Odisha, Cuttack

R. C. Case No. 301 of 2024

Decided on 22.01.2026

(Order by Smt. Sumita Sarkar O.A.S(SS)
Land Reforms Commissioner, Odisha,Cuttack.)

Nimain Charan Nayak & others ... **Petitioners.**

-Versus-

Raj Kishore Sethi & others ... **Opp. Parties.**

Mr. N.K. Nayak .. Adv. for the petitioners.

Addl. Standing Counsel … For the State.

Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 — Section 37(1)- Correction of ROR — Where the consolidation map accurately reflects the actual physical boundaries and title deeds of the parties, but the final Record of Rights (ROR) textually interchanges the plot numbers and incorporates wrong area configurations, the ROR must be corrected to bring it into strict conformity with the actual sale deeds, field possession, and map geometry.

D E C I S I O N

This case is taken up for hearing. Both the Learned Counsels for the petitioners and State are present. The opposite parties are absent on call at the time of hearing.

The petitioners have filed this revision U/s 37(1) of the OCH & PFL Act, 1972 for correction of ROR.

Heard. The Learned Counsel for the petitioners contended to record Hal Plot No. 1108 under Hal Khata No. 174 and and to record Hal Plot No. 1113 under Hal Khata No. 98 by inter changing both with correction of area as per their purchase

and possession. The suit land is situated in PS- Tirtol, Tahasil- Raghunathpur, Dist- Jagatsinghpur relating to Schedule-A i.e. Khata No. 174, Plot No. 1113, area Ac.0.09 dec. corresponds to Sabik Khata No. 340, Plot No. 1220, area Ac. 0.15 dec. (P) Ac. 0.09 dec. from Northern side, after correction Khata No. 174, Plot No. 1108, area Ac. 0.09 dec. and Schedule-B i.e. Khata No. 98, Plot No. 1108, area Ac. 0.06 dec. which corresponds to Sabik Khata No. 340, Plot No. 1220, area Ac. 0.15 dec.(P) Ac. 0.06 dec. from Southern side, after correction Khata No. 98, Plot No. 1113, area Ac. 0.06 dec.

During hearing of the case, Counsel for the petitioners submitted that the ancestors of petitioners namely Bansidhar Nayak and Kusuni Nayak have purchased the suit land from Sabik Plot No. 1220, area Ac. 0.15 dec.(P) Ac. 0.09 dec. from Northern side under Sabik Khata No. 340 from Bairagi Nayak S/o Bharat Nayak vide RSD No. 1242 dtd. 18.04.1978. Similarly, the father of OP No. 1 to 3, Dadhi Sethy had purchased Ac. 0.06 dec. from the said Sabik khata and plot from Southern side vide RSD No. 511 dtd. 10.02.1978. The Hal Plot No. 1108, possessed by the petitioners from Northern side and Plot No. 1113 possessed by the OP No. 1 to 3 from Southern side as per Sabik record. Although Plot No. 1108 & 1113 has been correctly reflected in the consolidation map, but the same was wrongly recorded in the ROR of the petitioners as well as Ops.

Went through the case record and report received from Tahasildar, Raghunathpur and Additional Sub-Collector, Jagatsinghpur vide Letter No. 2217 dated 10.07.2025 and letter No. 106 dtd. 18.03.2025 respectively.

On verification of the case record, it is seen that Sabik Khata No. 340, Plot No. 1220, area Ac. 0.15 dec. stood recorded in the name of Sadhu Nayak S/o Baraju Nayak. Sadhu Nayak died leaving behind his son Mathuri Nayak, who sold Ac. 0.06 dec. out of Ac. 0.15 dec. from Northern side of Sabik Plot No. 1220 vide RSD No.

2153 dtd. 17.05.1945 in favour of Bharat Nayak. After death of Bharat Nayak his son Bairagi Nayak sold the same suit land in favour of Dadhi Sethi S/o Prafulla Sethi vide RSD No. 511 dtd. 10.02.1978. Accordingly, order has been passed to record LR Plot No. 935, area Ac. 0.06 dec. in favour of Dadhi Sethi S/o Jhula Sethy.

Similarly, Bairagi Nayak sold rest Ac. 0.09 dec. out of Ac. 0.15 dec. from southern side of Sabik Plot No. 1220 in favour of Bansidhar Nayak S/o Uchhaba Nayak, Kusun Nayak S/o Netrananda Nayak vide RSD No. 1242 dtd. 18.04.1978. Accordingly, order has been passed to record part of Sabik Plot No. 1220 i.e. 935/2022, area Ac. 0.09 dec. in the name of Bansidhar Nayak & Kusun Nayak.

It is revealed from the certified copy of from No. 65 & 66 filed by the petitioners that L.R. Plot No. 935/2022, area Ac. 0.09 dec. corresponds to Hal Plot No. 1113 and L.R. Plot No. 935 corresponds to Hal Plot No. 1108.

Report received from Addl. Sub- Collector, Jagatsinghpur reveals that as per Sabik & Hal map comparison, Northern side of part of Sabik Plot No. 1220 indicated as plot no. 1108 in Hal map and the rest of Sabik Plot No. 1220 indicated as Plot no. 1113 in the Southern side. In Hal map, the area of Hal Plot No. 1108 is Ac. 0.07 dec. instead of Ac. 0.09 dec. and the area of Hal Plot No. 1113 is Ac. 0.09 dec. instead of Ac. 0.06 dec. Now, petitioners are in possession over plot no. 1108 and Ops are in possession over Plot No. 1113 as per their respective purchase. Further, submitted that the plot of petitioners and Ops be interchanged by keeping their areas and map intact as per their purchase.

It is ascertained from the report of Tahasildar, Raghunathpur that Hal Khata No. 98, Plot No. 1108, area Ac. 0.06 dec. stands recorded in the names of Rajkishore Sethy, Satyabhama Sethy and Srimati Sethy son and daughters of Dhadi sethy. Similarly, Khata No. 174, Plot No. 1113, area Ac. 0.09 dec. stands recorded in the

names of Nimain Charan Nayak, Karunakar Nayak, Jayanti Nayak, Arati Nayak, Minati Nayak sons and daughters of Banshidhar Nayak Kismat 8 Ana, Haramani Nayak D/o Kusuni Nayak, Sukanti Nayak, Bhagyabati Nayak daughters of Niranjan Nayak Kismat 8 Ana. Now, petitioners are in possession over plot no. 1108 and Ops are in possession over Plot No. 1113 as per Hal map and field possession.

In view of the above observations, the revision case is allowed. The Tahasildar, Raghunathpur is directed to correct the ROR by following due procedure under Mutation Manual within a period of three months from the date of receipt of the order and report compliance.

Accordingly, the case stands disposed of.

Send the copy of the order to Tahasildar, Raghunathpur for necessary compliance.

LAND SCHEDULE

PS- Tirtol, Tahasil- Raghunathpur, Dist- Jagatsinghpur relating to Schedule-A i.e. Khata No. 174, Plot No. 1113, area Ac. 0.09 dec. corresponds to Sabik Khata No. 340, Plot No. 1220, area Ac. 0.15 dec. (P) Ac. 0.09 dec. from Northern side, after correction Khata No. 174, Plot No. 1108, area Ac. 0.09 dec. and Schedule-B i.e. Khata No. 98, Plot No. 1108, area Ac. 0.06 dec. which corresponds to Sabik Khata No. 340, Plot No. 1220, area Ac. 0.15 dec.(P) Ac. 0.06 dec. from Southern side, after correction Khata No. 98, Plot No. 1113, area Ac. 0.06 dec.

Pronounced in the open Court on this day of **22nd January, 2026.**

Sd/-
Land Reforms Commissioner, Odisha

OSS Case No. 1258 of 2022

Decided on 25.11.2024

(Order by Sri Pradeep Kumar Nayak, O.A.S(SS)
Addl. Commissioner, Addl. Revisional Court No. IV.)

Dibyadham Jogashram Trust , Chakratirtha Road, Puri ... **Petitioner**

-Versus-

Manorama Das & others ... **Opp. Parties.**

Advocate for the Petitioner	:	Sri Udhaba Barik
Advocate for Opposite Party	:	Sri Sarat Chandra Acharya (Lord Jagannath Temple, Puri
Advocate for Opposite Party No. 1, 7 & 9	:	Sri Abhaya Chandra Rout
Addl. Standing Counsel for the State	:	Sri Sidharth Sankar Das

Orissa Survey & Settlement Act, 1962 — Revision — Record of Rights (ROR) correction — Property of Deity — Legal status of Deity as perpetual minor — Maintainability. The Petitioner (Dibyadham Jogashram Trust) prayed for the recording of the suit land in its name based on registered sale deeds. The Sabik ROR recorded the land as debottar property under the marfatdarship of Lord Jagannath, Puri, with stitiban status*. Held: A deity is a juristic perpetual minor and a disabled person whose property requires protection and cannot be alienated in violation of statutory requirements. Any transaction claiming right or title over the deity's property in violation of public policy is illegal and must be ignored; the deity cannot be divested of its immovable property, and the right, title, interest, and possession always vest with the deity (Thakurji v. State of Rajasthan and Deben Sethi v. State of Orissa followed). Since the petitioner failed to show a valid flow of title from the deity, the sale deeds are invalid, and the revision case is dismissed on merit*

D E C I S I O N

This case is taken up today. The Learned Advocate for the Petitioner is present. Heard. Gone through the petition and its annexures. The prayer for condoning the delay of the Petition filed Under Section 5 of the Limitation Act, 1963 is allowed. The following is the Hal-Sabik correlation of the suit land as submitted by the petitioner.

SCHEDULE OF PROPERTY

Mouza- Bhuan, Ps- Gop, Tahasil- Gop, Dist- Khordha

Sabik		
Khata No.	**Plot No.**	**Area**
115	886	Ac.1.750 dec out of Ac.4.450 dec
	887	Ac.0.07 dec
	888	Ac.0.02 dec
Hal		
Khata No.	Plot No.	Area
46	1083	Ac.3.640 dec
278	1084	Ac.1.870 dec

The petitioner prays for recording the suit land based on the registered sale deed. The brief background of the case as submitted by the petitioner is that, originally, the suit land stood recorded in the name of the O.P. No.3 to 9 in the Hal ROR. The petitioner had purchased the suit land from O.P. No.1 vide RSD No.1409 dated 02.12.2003. The O.P. No.1 had purchased the suit land from the O.P. No.2 vide RSD No.1484 dated 27.04.1987. The O.P. No.2 had purchased the suit land from the O.P. No.3 to 9 vide RSD No.2895 dated 05.09.1986. The O.P. No.3 to 9 had got the suit land in the title suit bearing No. OS No.193/251 of 1983/82-1 dated 24.02.1984 in the court of Sub-Judge, Puri. The petitioner submits that, in Hal the suit land is recorded in the name of the O.P. No.3 to 9, which he wants to correct and record in his name.

Notices were sent to the OPs by registered posts for hearing. The PWR from Addl. Sub-Collector, (Settlement) Puri vide letter No. 1944 dtd.02.09.2023 reveals that, the land schedule of the suit land is quit complicated involving disputed fact and flow of title. The suit land in Sabik ROR stands recorded in the name of Sadhu Nayak, S/o- Gadei Nayak and others but recorded in the name of Shri Jagannath Mahaprabhu Marfat Kulamani Padapanda ditiyabhaga khewat No.15 as intermediary. The PWR from the Addl. Sub-Collector,(Settlement) Puri also reveals that, the civil suit case as referred by the petitioner is involved over the suit land. The petitioner has failed to explain how the suit land recorded in the name of Lord Jagannath Mahaprabhu as intermediary with name of Kulamani Badapanda as Marfat got the title of the suit land. The suit land was transferred to the petitioner through sabik recorded tenant, and when and how, the deity land was settled on stitiban status in the name of so-called Sabik recorded tenant. It is settled law that deity land is not transferrable. Because the deity is perpetual minor. **There can be no dispute to the settled legal proposition that the land belonging to the deity cannot be subject to alienation in violation of statutory requirement. (See Temple of Thakurji v. State of Rajasthan, AIR 1998 Raj 85).**

There can also be no dispute to the settled legal proposition that the deity is a juristic perpetual minor/and disabled person, and the property belonging to the minor and a person incapable to cultivate the holding by reason of physical disability or infirmity requires protection. A deity is covered under both the classes. The manager/trustee/pujari and ultimately the State authorities are under obligation to protect the interest of such a minor or physically disabled person. The deity cannot be divested of any title or rights of immovable property in violation of the statutory provisions. The object is laudable and based on public policy. In order to protect its interest even a worshiper having no interest in the property may approach the authority or Court.

As a general proposition of law, if any person claims to have acquired any kind of right in the property belonging to the deity, the transaction is required to be ignored being illegal and the deity becomes entitled to recover the possession as well as the right, title and interest in the property. In the instant case, the land in question belong to Lord JagannathBije, Puri. As such no right, title and interest accrue or have accrued in favour of petitioners in respect of the suit land.

In a case of Deben Sethi vs State of Orissa and others their lordship of our own High Court have held as follows:

"Debottar property- Jagannath Temple property- Land belonging to the deity which is a juristic perpetual minor/and disabled person cannot be subject to alienation in violation of statutory requirement- It requires protection- If any person claims to have acquired any kind of right in the property belonging to the deity, the transaction is required to be ignored being illegal and the deity becomes entitled to recover the possession as well as the right, title and interest in the property- Right, title and interest over the land/property belonging to Lord Jagannath always vests with the deity".

In view of the foregoing examination of records, it is thus clear that, this is a clear case of disputed fact and flow of title of the suit land and the petitioner does not enjoy valid title of the suit land over the debottar land. This case is dismissed as not maintainable on merit.

The revision case is dismissed.

Pronounced in the open court on this day of 25.11.2024.

Sd/-
Addl. Commissioner, Addl. Revisional Court- IV

Revision Petition No. 50 of 2022

Decided on 27.01.2025

(Order by Sumita Sarkar, O.A.S(SS)
Addl. Commissioner,
Settlement & Consolidation, Cuttack)

Sipra Das ... **Petitioner**
-Versus-
Surendra Nath Sen & others ... **Opp. Parties.**

For the Petitioner : Sri Abinash Routray, Advocate

For the Opposite Parties : None

Odisha Survey & Settlement Act, 1958 — Section 15(b) — Limitation Act, 1963 — Section 5 — Condonation of Delay — Maintainability and Merits — Chain of Title — Evidentiary Value of Yadast — Held, condonation of delay under Section 5 of the Limitation Act, 1963, only cures the delay for the purpose of maintainability and does not establish the petitioner's claim on merits; a petitioner seeking correction of Hal ROR on the basis of a Registered Sale Deed of 1959 and Exchange Deed of 1972 must establish a clear and continuous chain of title through primary documents connecting the claimed interest with the original Sabik recorded tenants; uncorroborated entries in a Yadast are insufficient to conclusively establish title, particularly in the absence of supporting title documents; material discrepancies in the dates stated in the pleadings and written notes of argument further weaken the credibility of the claim; accordingly, in the absence of cogent evidence of title and in view of undue laches, the revision petition was held devoid of merit and dismissed.

DECISION

This case is taken up today.

The learned Counsel for the Petitioner is present. The Opp.parties are found absent.

Heard.The learned Counsel for the Petitioner who filed the revision petition U/s. 15 (b) of the O.S. & S. Act, 1958. The delay was condoned on considering the petition filed u/s 5 of the Limitation Act, 1963 and accordingly the revision was admitted. Notice was issued and duly served to the Opp. Parties following due procedure. Despite sufficient notice, the Opp. Partiesneither entered their appearance nor chose to contest the case.

The claim of the Petitioner in this revision is for correction of Hal ROR and recording the schedule property in favour of the petitioner on the basis of purchase through Registered Sale Deed No. 4248dtd. 12.06.1959 and Exchange Deed No. 3287dtd. 25.06.1972. The case land appertaining to Hal Khata No. 170, HalPlot No. 2004, of an area Ac. 0.071dec.of Mouza- Cuttack Sahar, Unit No. 12 Sutahat, P.S.-Lalbag, District- Cuttack, wasfinally published on 31.03.1992.

On verification of documents available in the case record and submissions made by the learned Counsel for the petitioner, it is revealed that originally Sabik khata No.58, containing plot No.1492 stood recorded in the names of Surendra Nath Sen,Gajendra Nath Sen and Pritimaya Sen Sons of Narayan Sen, which corresponds to Hal khata No.170, Hal plot No.2003 Ac.0.011 dec. and Hal plot No. 2004 Ac.0.071 dec. of Mouza- Cuttack Sahara, Unit No.12, Sutahat, Ps.-Lalbag, Dist.-Cuttack and this Hal khata No.170 stands recorded in the names of sabik recorded

tenants. The claim of the petitioner is to record Hal plot No. 2003 Ac.0.011 dec. and Hal plot No. 2004 Ac.0.071 dec. in their names on basis of purchase, but has not filed any documents to prove the flow of title from Sabikrecorded tenants, on which basis Dolly Roy,W/o. Harish Chandra Roy acquired title over this property. The petitioner has not mentioned the number of alleged sale Deed on the basis of which Dolly Roy got this property. In this regard there is discrepancy with regard to the date of Sale Deed in the plaint and the written note of Argument. The contents of Yadast, without support of any documents is not conclusive proof to record the property in the name of a person, claiming title over the property. How Dolly Roy got this property from the Sabikrecorded tenants is not proved. So the subsequent transaction made by Dolly Roy, W/o.-Harish Chandra Roy by R.S.D No.3975 dated 02.06.1959 in favour of Bhakti Charan Das,S/o.Judhistir Das and Nityananda Das,S/o.Balaram Das&subsequently by a Regd. Deed of Exchange bearing No.3287 dated 25.06.1972 made between BhikariCharan Das and Nityananda Das, this property fell to the share of Bhakti Charan Das/common ancestor of petitioner and proforma Opp.parties No.4 to 6,confers no title on the petitioner and proformaopp.parties No.4 to 6.

Keeping the above in view, the claim of the petitioner deserves no merit for consideration in the absence of supporting documents and stands dismissed on latches.

Pronounced the order today.

Sd/-
Addl. Commissioner,
Settlement & Consolidation, Cuttack.

S.R.P. Case No. 56 of 2024

Decided on 11.09.2025

(Order by Sri Pitambar Bhoi, O.A.S (SAG)
Addl. Commissioner,
Settlement & Consolidation, Kalahandi)

Lakshyapati Bhoi ... **Petitioner**

-Versus-

Hanuman Prasad Agrawas (Dead)
represented by his legal heirs
Pooja Agrawas & others ... **Opp. Parties.**

Odisha Survey and Settlement Act, 1958 – Section 15(b) – Limitation Act, 1963 – Section 5 – Condonation of delay and correction of Record-of-Rights (ROR) – Erroneous recording of ownership – ***Held: Where the petitioner established continuous peaceful possession and a clear chain of title through successive Registered Sale Deeds (R.S.D. No. 99/1997 and R.S.D. No. 1716/1997), the right, title, and interest of the original recorded tenant (Sthitiban) stand legally extinguished from the date of the initial sale execution. The subsequent erroneous entry in the ROR in the name of the vendor's predecessor, arising purely from the non-submission of a claim by the purchaser during settlement operations, cannot override validly executed registered transfer documents, especially when the legal heirs of the opposite party interpose no objection. Consequently, the delay in filing the settlement revision is condoned, the petition is allowed, and the Tahasildar is directed to treat the registered sale deeds as valid pre-settlement documents and effect a separate mutation of the suit land Ac.0.08 out of Hal Plot No. 998, Khata No. 879) in favor of the petitioner.***

DECISION

This Settlement Revision Petition has been filed by the petitioner U/S 15(b) of Odisha Survey and Settlement Act, 1958 along with a limitation petition U/S 5 of Limitation Act 1963 challenging the entry in ROR in respect of Hal Plot No.998 covered by Hal Khata No.879 of Mouza Rampur finally published on 31/03/1997 which stands recorded in the name of Hanuman Prasad Agrawal S/o-Santhalal Agrawal, caste Marwadi, Basasthan Nijagaon under Sthitiban status on the ground of erroneous recording.

Advocate Sri H. Mohanty and others filed Vakalatnama along with copy of R.S.D. No.99/1997 and R.S.D.No.1716/1997, copy of Sabik Khata No.239/157, copy of Hal RoR and Plot index on behalf of the petitioner in support of his claim.

This case was registered and notices were issued to the parties concerned. the Learned Advocate stated that the petitioner Lakshyapati Bhoi purchased the suit land measuring to an extent of Ac.0.08 Dec from Sobhakar Jani Opposite Party No.2 by way of Registered Sale Deed vide document No.1716/1997 dated 08/08/1997 and the same was purchased earlier by Sobhakar Jani (Opposite Party No.2) from the original land owner Hanuman Prasad Agrawal by way of Registered Sale Deed vide document No.99/1997 dated 14/01/1997 of mouza Rampur covered under Sabik Khata No.239/157, Sabik Plot No.721 and the vendor delivered the possession of the suit land to the purchaser SobhakarJani and subsequently the same area is delivered with possession to the petitioner through the Registered Sale Deed by the purchaser Op No.2. The petitioner is in continuous peaceful possession over the schedule suit land.

The Parawise report has been received from the Addl.Sub-Collector, Bhawanipatna. On perusal of the report , it is found that the Sabik Khata No.239/157, Sabik Plot No.721, Ac.0.160 Dec stood recorded in favour of Hanuman Prasad Agrawal which co-relates to Hal Khata No.879, Hal Plot No.998, Ac.0.16 out of Ac.0.440 of mouza Rampur.

Verified the RSD bearing No.99/1997 & 1716/1997 and found that Shobhakar Jani S/o-Bati Jani by caste "Kandha", village M.Rampur, Dist-Kalahandi has purchased the suit land measuring to an extent of Ac.0.16 pertaining to Sabik Plot No.721 under Sabik Khata No.239/157 of mouza Rampur under Tahasil M.Rampur from Hanuman Prasad Agrawal S/o-Santoshlal Agrawal by caste "Marwadi", village M.Rampur, Dist-Kalahandi vide Registered Sale Deed bearing No.99/1997.

Shobhakar Jani sold to the petitioner a part of the suit land measuring to an extent of Ac.0.08 pertaining to Sabik Plot No.721 under Sabik Khata No.239/157 of mouza Rampur under Tahasil M.Rampur, Dist-Kalahandi. From the date of purchase, the petitioner is in peaceful possession. Due to non-submission of claim by the purchaser, the same has been erroneously recorded in the name of Hanuman Prasad Agrawal.

The right , title, interest and possession of the recorded tenant Hanuman Prasad Agrawal has been extinguished in respect of the said suit land from the date of execution R.S.D. No.99/1997. The OP No.1(a) appeared before the Court and stated that the he has no objection if the suit land is recorded in the name of the petitioner since the petitioner is in peaceful possession of the suit land.

Hence the delay for filling the case is condoned and the revision is hereby allowed.

The Tahasildar Madanpur Rampur is directed to treat the above Registered Sale Deeds as valid and pre settlement documents and undertake mutation of Ac.0.08 of Hal Plot No.998 concerning to Khata No.879 of mouza Rampur separately in the name of the petitioner Lakshyapati Bhoi S/o-Late Dhundi Bhoi, village M.Rampur.

Pronounced in the open Court today the 11th of September,2025.

Sd/-
Addl. Commissioner,
Settlement & Consolidation, Kalahandi

S.R.P. Case No. 863 of 2017

Decided on 11.12.2025

(Order by Sri Pitambar Bhoi, O.A.S (SAG)
Addl. Commissioner,
Settlement & Consolidation, Kalahandi)

Dusasan Naik & others ... **Petitioners**
-Versus-
Saibani Sabar & others ... **Opp. Parties.**

Odisha Survey and Settlement Act, 1958 — Section 15(b) — Limitation Act, 1963 — Section 5 — Condonation of Delay — Mutation — Registered Sale Deed — Erroneous Record of Rights — Held, where the purchaser has remained in peaceful possession of the suit land from the date of execution of a valid Registered Sale Deed (R.S.D. No. 420/1987), the failure to seek mutation within the prescribed period does not revive or preserve the right, title, interest or possession of the original recorded tenants, which stood extinguished by operation of law upon execution of the sale deed; the subsequent erroneous recording of the land in the names of the original tenants in the ROR cannot confer or validate any right in their favour; where such erroneous entries are attributable to apparent clerical or settlement mistakes, the delay in preferring a revision under Section 15(b) of the Odisha Survey and Settlement Act, 1958, may be condoned under Section 5 of the Limitation Act, 1963; the Revisional Authority is competent to recognize the genuineness and legal effect of the registered sale deed, direct the concerned Tahasildar to undertake the requisite pre-settlement proceedings, and order correction of the final Hal ROR by separately recording the schedule land in favour of the lawful purchaser; revision allowed.

D E C I S I O N

This Settlement Revision Petition has been filed by the petitioner U/S 15(b) of Odisha Survey and Settlement Act, 1958 along with a limitation petition U/S 5 of Limitation Act 1963 challenging the entry in ROR in respect of Hal Plot No.1458 &

1364 covered by Hal Khata No.49 of Mouza Tentulipada finally published on 30.03.2013 which stands recorded in the name of Ganapati Sabar, Tankadhar Sabar, Dhanurjya Sabar, Srimati Sabar & Khira Sabar, all are sons/daughters of Kameswar Sabar, Mudrika Sabar W/o-Kameswar Sabar by caste "Sabar", village Nijagaon under Sthitiban status on the ground of erroneous recording.

Petitioner Dusasan Naik filed copy of R.S.D. No.10901000180/2010and copy of Hal RoR in support of his claim.

This case was registered and notices were issued to the parties concerned. The petitioner Dusasan Naiksubmits that 1.Dusasan Naik, 2.Phakir Naik, 3.Tejraj Naik, 4.Jasobant Naik, all are sons of Padu Naik by caste "Banjara", village Tentulipada, Po-Budhidara, PS-Junagarh, Dist-Kalahandihave purchased the suit land measuring to an extent of Ac.0.58 Dec from 1.Saibani Sabar S/o-Late Ratnakar Sabar, 2.Ganapati SabarS/o-Late Kameswar Sabar, 3.Tankadhar Sabar S/o-Late Kameswar Sabar, 4.Mukta Sabar W/o-Late Dhanurjya Sabar, 5.Amar Sabar S/o-Late Gadu Sabar, 6.Kasturi Sabar W/o-Prasanna Sabar, 7.Raghu Sabar S/o-Nanda Sabar, 8.Ahalya Sabar D/o-Madua Sabar, 9.Dhanbal Sabar S/o-Late Sunadhar Sabar by caste "Sabar", village Tentulipada, Po-Budhidara, PS-Junagarh, Dist-Kalahandi (Opposite Party No.1 to 9) by virtue of Registered Sale Deed vide document No.10901000180/ 2010 dated 27.01.2010 of mouza Tentulipada covered under Sabik Khata No.34, Sabik Plot No.555,556&535. The petitioner is in continuous peaceful possession over the schedule suit land.

The Para wise report has been received from the Addl.Sub-Collector, Settlement, Kalahandi. On perusal of the report , it is found that the Sabik Khata No.34, Sabik Plot No.555,556&535, Ac.0.58 Dec stood recorded in the name of Ratnakar Sabar S/o-Dibakar Sabar, Kameswar Sabar, Guni Sabar S/o-Hari Sabar, Gadu Sabar S/o-Biro Sabar, Bana Sabar, Bhuka Sabar, Nanda Sabar, Madua Sabar, Sunadhar Sabar, Danara Sabar, sons of Karunakar Sabar by caste "Sabar" which co-relates with Hal Khata No.49, Hal Plot No.1458&1364, Ac.0.58 of mouza Tentulipada.

From status report of Tahasildar Junagarh , it is found that the petitioner 1.Dusasan Naik, 2.Phakir Naik, 3.Tejraj Naik and 4.Jasobanta Naik is in peaceful possession over the suit land measuring to an extent of Ac.0.28 pertaining to Hal No.1458& Ac.0.30 pertaining to Hal No.1364 under Hal Khata No.49 of mouza Tentulipada.

Verified the RSD bearing No.10901000180/2010 and found that 1.Dusasan Naik, 2. Phakir Naik, 3.Tejraj Naik, 4.Jasobant Naik, all are sons of Padu Naik by caste "Banjara", village Tentulipada, Po-Budhidara, PS-Junagarh, Dist-Kalahandi have purchased the suit land measuring to an extent of Ac.0.06 pertaining to Sabik Plot No.555, Ac.0.24 pertaining to Sabik Plot No.556& Ac.0.28 pertaining to Sabik Plot No.535under Sabik Khata No.34 of mouza Tentulipada under Tahasil Junagarh from 1.Saibani Sabar S/o-Late Ratnakar Sabar, 2.Ganapati Sabar, 3.Tankadhar Sabar S/o-Late Kameswar Sabar, 4.Mukta Sabar W/o-Late Dhanurjya Sabar, 5.Amar Sabar S/o-Late Gadu Sabar, 6.Kasturi Sabar W/o-Prasanna Sabar, 7.Raghu Sabar S/o-Nanda Sabar, 8.Ahalya Sabar S/o-Madua Sabar, 9. Dhanbal Sabar S/o-Late Sunadhar Sabar by caste "Sabar", village Tentulipada, Po-Budhidara, PS-Junagarh, Dist-Kalahandi. From the date of purchase, the petitioner is in peaceful possession. Due to non-submission of claim in time by the purchaser, the same has been erroneously recorded in the name of Ganapati Sabar, Tankadhar Sabar, Dhanurjya Sabar, Srimati Sabar, Khira Sabar, all are sons/daughters of Kameswar Sabar, Mudrika Sabar W/o-Kameswar Sabar by caste "Sabar", village Nijagaon.

The right , title, interest and possession of the recorded tenant Ganapati Sabar, Tankadhar Sabar, Dhanurjya Sabar, Srimati Sabar, Khira Sabar, all are sons/daughters of Kameswar Sabar, Mudrika Sabar W/o-Kameswar Sabar by caste "Sabar", village Nijagaon has been extinguished in respect of the said suit land from the date of execution R.S.D. No.10901000180/2010.

Hence the delay for filling the case is condoned and the revision is hereby allowed.

The Tahasildar Junagarh is directed to treat the above Registered Sale Deeds as valid and pre settlement documents and undertake mutation of Ac.0.28 of Hal Plot No.1458& Ac.0.30 of Hal Plot No.1364 concerning to Hal Khata No.49 of mouza Tentulipada separately in the name of the petitioner 1.Dusasan Naik S/o-Late Padu Naik, 2.Tejraj Naik S/o-Late Padu Naik, 3.Jasobanta Naik S/o-Late Padu Naik and 4. Legal heirs of Phakir Naik S/o-Late Padu Naik by caste "Banjara", village Tentulipada.

Pronounced in the open Court today the 11th of December,2025.

Sd/-
Addl. Commissioner,
Settlement & Consolidation, Kalahandi

Revision Petition Case No. 220 of 2021

Decided on 08.04.2026

(Order by Sri Lakshmikanta Sethi, O.A.S (SS)
Commissioner, Consolidation, Cuttack)

Susanta Parida & others ... **Petitioners**

-Versus-

State of Odisha, represented through
Tahasildar, Marshaghai & another ... **Opp. Parties.**

For the Petitioners : Mr. N.C. Jena, Advocate

For the Opposite Party No. 1 : Mr. B. K. Parida, Standing Counsel

For the Opposite Party No. 2 : Mr. N. P. Parija, Advocate

Orissa Survey & Settlement Act, 1958 — Section 15(b) — Revision — Correction of Record of Rights and Map — Ancestral Sabik Possession — Final Hal RoR published in 1991 — Long-standing registered alienations — Jurisdiction — Held, revision petition seeking correction of RoR and map alignment on the basis of ancestral Sabik possession was not maintainable where the disputed lands had been subject to registered gift and sale deeds in 1964 and 1982, followed by continuous possession and publication of the final Hal RoR in 1991; a statutory presumption of correctness attaches to the finally published RoR, which cannot be lightly reopened after a delay of over three decades; the revisional authority under Section 15(b) exercises only limited summary jurisdiction to rectify apparent errors or statutory irregularities and cannot adjudicate complicated questions of title, civil rights, validity of registered instruments, competing boundaries or long-standing possession; such disputes being essentially civil in nature, the settlement authority lacks jurisdiction to determine them, and the aggrieved parties must seek appropriate relief before the competent Civil Court; revision dismissed with liberty to approach the appropriate civil forum.

D E C I S I O N

In Revision Petition No.220/2021 filed U/s 15 (b) of the O.S.&S. Act,1958 (shortly called as the Act) relating to Mouza-Pentha, P.S. Patkura, Dist. Kendrapara, the Petitioners, Susanta Parida & Others have prayed for recording the name of the Petitioners as per their entitlement and possession in the field as per Sabik RoR and map in a separate khata and area in map be corrected as per Sabik map and possession of the petitioners in the field with respect to Hal Plot No.2607 Ac.0.030 dec under Hal Khata No. 214 which corresponds to Sabik Plot No.3198/3998 Ac.0.16 dec under Sabik Khata No. 190.

2. Considering the available documents on records and nature of relief prayed for by the petitioners, the delay was condoned and the Revision Petition was taken up for hearing on merit.

3. The Counsel for the petitioners was absent. The Standing Counsel for the Opposite Party No.1 (State) and the Counsel for the Opp. Parties No.2 were present and heard. The Opp. Parties have stated that the Petitioners are trying to prolong the case intentionally.

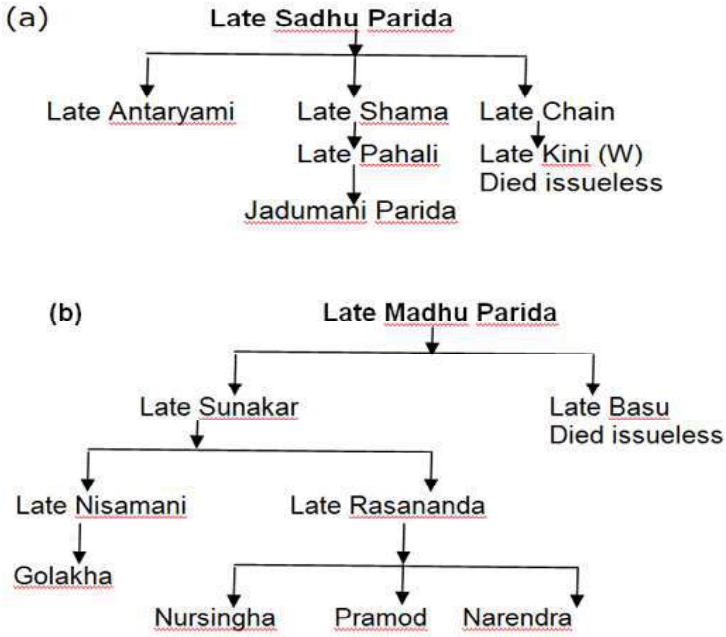
4. Para-wise report of Tahasildar, Marshaghai vide his letter No.1716 dated 09.05.2025.

5. The content of the revision petition as per the plaint is that the disputed property originally belongs to Late Shama Parida, Late Pahali Parida, Late Kini Bewa, Late Sunakar Parida, Late Basu Parida, late Gama Dei and Late Mani Parida in Sabik Khata No.190, Sabik Plot No.3198/3998 with note of possession of Shama Parida, Sunakar Parida, Basu Parida and Mani Parida.

As per genealogy, the property belongs to Late Sadhu Parida, Late Madhu Parida and Late Radhu Parida having 1/3rd share each. After amicable partition between the family, the Sabik Plot No.3198/3998 fell in the share of Shama Parida S/o Sadhu Parida(1/3rd share), Sunakar and Basu S/o Madhu Parida(1/3rd share

jointly), Mani S/o Radhu Parida(1/3rd share). Further, the family members of Late Sadhu Parida and Late Madhu Parida sold some portion of their share from Sabik Plot No.3198/3998 to Opposite party No.2 for the purpose of construction of the school. However, the 1/3rdshare of Mani from the Sabik Plot No.3198/3998 has not been sold out to anybody. But, when the RoR was published , it came to the knowledge of the Petitioners that their names have not been recorded by the Settlement Authority though they have 1/3rd share in the Sabik Plot No.3198/3998 and the petitioners are residing in the same plot by constructing their dwelling house. The Petitioners have filed this case to record the disputed property in their favour as per their entitlement and possession.

The genealogy as mentioned in the plaint is shown below.



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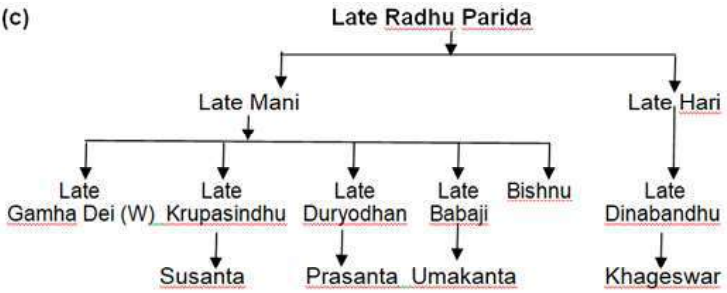

6. Perused the report submitted by the ASO, wherein the following has been stated :

(i) Sabik Plot No. 3998(p) corresponds to Hal Plot No. 2607.

(ii) It is further mentioned that Sabik Khata No.190, Sabik Plot No.3198/3998 area Ac.0.16 dec. (bearing note of possession in favour of Shama Parida, Sunakar Parida, Basu Parida and Mani Parida) and the recorded tenants being Pahali Parida S/o Antarjami Parida, Shama Parida S/o Sadhu Parida, Kini Bewa W/o Chai Parida, Sunakar Parida, Basu Parida S/o Madhu Parida, Mani Parida S/o Radhu Parida, Gama Bewa W/o Hari Parida, Rama Dei W/o Mani Parida, Jagannath Samantaray S/o Somanath Samantaray in Stithiban status.

(iii) During the Khanapuri stage, According to Yadadast No. 886, Hal Plot No. 2607 was donated by Pahali Parida to the Chairman of Balikuda Lower Primary School vide Gift Deed No. 5026, dated 27.05.1964, for a consideration amount of ¹ 200. Consequently, Hal Plot No. 2607 should be recorded in the name of the Chairman, Balikuda Primary School, in the relevant Khata. However, there is currently no formal order updating the record for Hal Plot No. 2607.

(iv) As per the order of the Assistant Settlement Officer (ASO) and Amin Report No. 479, Hal Plot No. 2607 is to be deleted from the Khanapuri Khata and to be recorded in the name of the Chairman, Balikuda Lower Primary School, Penthasamili for an area Ac. 0.05 decimal in stithiban status.

7. The Counsel for the petitioners has submitted the following documents in order to substantiate his claim:

1. Hal ROR No. 214
2. Sabik RoR No.190
3. Regd. Gift Deed No.5026 dtd.27.5.1964
4. RSD No.1330 dtd.17.3.1982
5. Certified copy of Plot Index

8. Gone through the contention of the petition, para-wise report of Tahasildar, Rajnagar and the documents submitted by the Petitioners.

Perused the photocopy of the Hal RoR No.214 bearing Hal Plot No.2607 area Ac.0.030 dec. (Gharabari) which has been recorded in favour of Chairman , Lower Primary School, Pentha Samil Balikuda in Stithiban status.

Perused the copy of Sabik Khata No.190, Sabik Plot No.3198/3998 area Ac.0.16 dec. (bearing note of possession in favour of Shama Parida, Sunakar Parida, Basu Parida and Mani Parida) and the recorded tenants being Pahali Parida S/o Antarjami Parida, Shama Parida S/o Sadhu Parida, Kini Bewa W/o Chai Parida, Sunakar Parida, Basu Parida S/o Madhu Parida, Mani Parida S/o Radhu Parida, Gama Bewa W/o Hari Parida, Gama Dei W/o Mani Parida, Jagannath Samantara S/o Somanath Samantarain Stithiban status.

Perused the certified copy of Plot Index wherein it is ascertained that Hal Plot No.2605, 2606 and 2607 corresponds to Sabik Plot No.3998. Also perused the photocopy of Plot Index Mouza-Pentha wherein Sabik Plot No. 3198/3998 corresponds to Hal Plot No. 2605, 2606 and 2607 respectively.

Perused the Regd. Gift deed bearing No.5026 dated27.05.1964 in which the Donor Pahali Parida son of late Shama Parida has gifted the suit land i.e. an area of Ac.0.05.3 out of Ac.0.16 dec from Sabik Plot No.3198/3998 in Sabik Khata No.190 of Mouza-Pentha to receiver Balikuda Lower Primary School Chairman.

Perused the RSD No.1330 dated 17.03.1982 in which the Vendor Nisamani Parida, son of late Sunakar Parida and Rasananda Parida Son of Late Basudeb Parida have transacted the suit land i.e. an area of Ac.0.05.3 dec out of Ac.0.16 dec from Sabik Plot No.3198/3998 in Sabik Khata No.190 of Mouza- Pentha to Vendee all the villagers of Pentha Samil Balikuda Marfat Agani Charan Parida Son of late Dambarudhar Parida.

9. Perused the para-wise report of Tahasildar, Marsaghai wherein it has been stated that Hal Khata No. 214 stood recorded in favour of Chairman , Balikuda Lower Primary School , Penthi Samil, , Balikuda where the name of the recorded tenant in Sabik Khata No. 190 has been mentioned as Pahali Parida S/o Antarjami Parida, Shama Parida S/o Sadhu Parida, Kini Bewa W/o Chai Parida, Sunakar Parida, Basu Parida S/o Madhu Parida, Mani Parida S/o Radhu Parida, Gama Bewa W/o Hari Parida, Gama Dei W/o Mani Parida, Jagannath Samantara S/o Somanath Samantara. As per the report of Revenue Inspector and Amin, Govt. U.P. School, Pethha ,Balikuda is situated over Hal Plot No. 2607, Ac 0.030dec, Kisam Gharabari.

As per order dated 24.04.2025, a field inquiry was conducted in the presence of the villagers of Mouza: Pentha, Balikuda. Upon verifying the records of the said plot, it is found that in Mouza: Pentha, under Hal Khata No. 214 with Sthitiban (permanent tenancy) status, Hal Plot No. 2607, measuring an area of Ac.0.03 decimals, is currently recorded in the name of the Chairman, Balikuda Primary School, Penthasamili.

Upon investigating the Sabik plot details of the said land, it was found that under Sabik Khata No. 190 (Sthitiban status), the names recorded were Pahali Parida S/o Antaryami Parida, Sama Parida S/o-Sadhu Parida, Kini Bewa, W/o- Chai Parida, Sunakar Parida, Basu Parida, S/o-Madhu Parida, Mani Parida, s/O-Radhu Parida, Gahma Bewa, W/o- Hari Parida, Gahma Dei, W/o- Mani Parida, Caste-Khandayat, Jaganath Samantra, S/o-Somanath Samantara Caste- Mahalaik, Vill-Nijigaon and Furthermore, Sabik Plot No. 3198/3998, measuring Ac. 0.16 decimals (Kisam: Biali Dophasai), with a note of possession in favor of Sama Parida, Sunakar Parida, Basu Parida, and Mani Parida. In total, 37 plots were recorded under this Khata, comprising a total area of Ac7.64dec. As per the Sarjamin (Field) Enquiry, Hal Plot No. 2607, measuring an area of Ac. 0.03 decimals with a classification (Kisam) of

Gharabari, is currently recorded in the name of Govt. Higher Primary School, Pentha, Balikuda. Furthermore, it is observed that on the south side of this plot, a Concrete (Dhalei) Road with a width of 20 Kadi has been constructed.

10. The Opp parties No.2 have submitted their written submissions wherein the following has been stated :

i. That, the Petitioner has no locus standi to file this revision because the cause of action did not arise against the respondent as per the Hal RoR published in the year 1991.

ii. That, as per the Amin report of Major settlement operation it is recorded that the Sabik Plot No.3198/3998 under Sabik Khata No.190 was divided into 3 hal plots i.e 2605, 2606 and 2607. Out of which the Hal Plot No.2605 Ac.0.02 dec and Hal Plot No.2606 Ac.0.03 dec was recorded in the name of Opp. Party No.2 vide RSD No.1330 dtd.17.03.1982.

iii. Further, the plot No.2607 was in the exclusive possession of Pahali Parida and he sold the same (vide Dattapatra) No. 5056 dtd. 27.05.1964 to the tune of Ac.0.03 dec in place of Ac.0.05 dec 3 kadis.

iv. That, the sale deed registered by the ancestors of the present petitioner according to amicable partition was reflected in the Sabik ROR remarks column and shows in the sale deed that physical possession was obtained and delivered possession to the respondent school.

v. That, the petitioner has never filed any objection before the measure settlement officer regarding recording the land in their favor as per the Sabik ROR. Also as per law the civil court has jurisdiction to decide the right title and interest of the suit land.

vi. That the petitioner has challenged the ROR issued by the Settlement Authority wherein he has admitted in the Revision petition the Sabik Plot No. 3198/3998 bearing Khata No. 190 Area Ac 0.16dec has been

recorded illegally in favour of the private party but unfortunately , the petitioner has initiated the entire proceeding on area Ac 0.16dec whereas the Hal ROR has been issued for an area of Ac 0.08dec in two separate ROR in the name of the Opp. Parties.

It has further being stated that without ascertaining the area of Ac 0.05dec 3 kadi of the land the petitioner has challenged the entire area for filing the Revision petition.

vii. That, the ROR has been published exclusively in the name of the School and the matter has been concluded by the Settlement officer. Hence it is not otherwise permissible to reopen the present revision after a period of 4 decades.

viii. Further, it has also been stated that the present Opp. Parties have accrued the right title and interest with respect to the suit land and have been occupying the land for the school purpose. Tahasildar has also received the rent and as per the Tenancy Act acceptance of rent is sufficient to settle the land in tenancy.

11. The Standing Counsel for the State has submitted his written submissions

i. The present Revision Petition No. 220/2021 has been filed seeking correction of Hal Record-of-Rights in respect of Hal Plot No. 2607, area Ac.0.03 dec, corresponding to Sabik Plot No. 3198/3998 under Sabik Khata No. 190, Mouza Pentha

ii. At the very outset, it is humbly submitted that the revision is not maintainable, as the petitioners have already filed Revision petition No. 219/2021 Challenging the settlement entries arising out of the same Sabik Plot NO. 3198/3998.

iii. That during Major Settlement Operation, the Sabik Plot No. 3198/ 3998 was lawfully sub-divided into Hal Plot Nos. 2605, 2606 and 2607 on the basis of Amin's field report, local enquiry, and possession as verified at the spot.

iv. The Hal ROR was prepared and finally published strictly in accordance with the statutory procedure.

v. That the final Hal ROR was published in the year 1991 and carries a statutory presumption of correctness. The present revision has been filed after nearly three decades, without any satisfactory explanation for such inordinate delay. Hence, the case is liable to be rejected on the ground of delay and laches.

vi. That the petitioners did not file any objection during Khanapuri stage, Draft publication stage, or Final publication stage of settlement.

vii. The present attempt is nothing but an effort to reopen long-settled records, which is impermissible under revisional jurisdiction.

viii. That the dispute raised by the petitioners involves: competing claims over share and entitlement, challenge to subdivision and recording based on possession, and questions relating to right, title and interest.

ix. These are disputed questions of civil title, which cannot be adjudicated under Section 15(b) of the O.S. & S. Act and are within the exclusive domain of a competent Civil Court.

x. That the settlement entries having been made on the basis of field enquiry and possession and there being no apparent illegality or clerical error, no interference is called for in exercise of revisional powers.

In view of the facts and submissions stated above, it is most humbly prayed that this Hon'ble Court may be pleased to dismiss Revision Petition No. 220/2021 as not maintainable and devoid of merit, on the grounds of laches, and involvement of disputed questions of title, leaving the petitioners at liberty to seek appropriate remedy before the competent Civil Court, if so advised.

12. Perused all the reports and documents on record wherein the following has been ascertained

i. That the petitioner has prayed for recording the name as per their entitlement and possession in the field as per Sabik RoR and Map in the separate Khata.

ii. It is seen that the Sabik Khata No. 190 stood recorded in favour of Pahali Parida and others while the note of possession against the Sabik Plot No. 3198/3998Ac.0.16 dec. was recorded in favour of Shama Parida S/o Sadhu Parida, Sunakar Parida & Basu Parida S/o Madhu Parida, Mani Parida

iii. It has been stated by the petitioner that each of the possession holder was entitled to 1/3rd of the share from the impugned Sabik Plot No. 3198/3998 after amicable partition. Further, it has also been stated that the family members of late Sadhu and late Madhu have sold some portions of their share from Sabik Plot No. 3198/3998 to Opp. Party No. 02 for the purpose of construction of School. However, the 1/3rd share of Mani Parida from Sabik Plot No. 3198/3998 has not been sold to anybody.

iv. On perusal of Regd. Gift Deed Nos. 5026 dated 27.05.1964 and 1330 dated 17.03.1982 as elaborated previously, it is ascertained that Pahali Parida, Nishamani Parida and Rasananda Parida have alienated their share (Ac.0.05 dec 3 kadi each) from Sabik Plot No. 3198/3998 to Pentha Samili Balikuda School.

v. The Plot Index reveals that the Sabik Plot No. 3198/3998 corresponds to Hal Plot No. 2607 under Hal Khata No. No. 214 .

vi. It is pertinent to mention that while the Hal Khata No.7 bearing Plot No. 2605 Ac.0.02 dec. and Plot No. 2606 Ac.0.03 dec. stood recorded in favour of Pentha Samili Balikuda Vill Marfat Agani Charan Parida Son of Damrudhar Parida in stithiban status , the Hal Khata No. 214 bearing Hal Plot No. 2607 Ac.0.03 dec. has been recorded in favour

of Chairman Balikuda Lower Primary Bidyalaya Pentha Samili, Balikuda in stithiban status. .

vii. It is evident that the corresponding Hal Plots i.e. 2605, 2606 and 2607 cumulatively form an area of Ac.0.08 dec., whereas the area alienated in favour of the School vide the aforesaid Regd. Gift Deed No. 5026 dated 27.05.1964 and RSD No. 1330 dated 17.03.1982 comes to Ac.0.10 dec 6 kadis approximately.

viii. It is clear that the Sabik Plot originally had an area of Ac.0.16 dec, which came to be settled in 3 hal plots i.e 2605, 2606 and 2607 respectively for an area of Ac.0.08 dec only. It is also to be considered that the School has a bonafide title bestowed upon it vide the aforesaid RSDs for an area of Ac.0.10 dec 6 kadis approx. Also what cannot be disputed is the claim of the Petitioner who claims to have not sold his share from the impugned Sabik Plot.

ix. Assuming that the prayer of the petitioner were to be considered, then the share of the Petitioner being Ac.0.05 dec approximately could be recorded in his favour as per the Sabik records, however, considering that the total area in hal settlement being Ac.0.08 dec (divided amongst the three plots), the Regd. Gift Deed and RSD would lose all relevance and the entitlement of the School would be reduced to mere Ac.0.03 dec despite a purchase/ donation of Ac.0.10 dec.

x. This evidently has gives rise to dispute which is civil in nature and cannot be settled within the jurisdiction of this Court.

In the above grounds, the prayer of the Petitioner cannot be considered and the Petitioners are at liberty to approach the appropriate forum.

13. Resultantly, the Revision Petition is dismissed.

Pronounced the order in the open Court to-day, the -8th day of April, 2026.

Send the copy of this order to the Tahasildar, Marshaghai for the needful.

Sd/-
Commissioner, Consolidation,
Odisha, Cuttack

OSS Case No. 1376 of 2019

Decided on 26.02.2026

(Order by Sri Prabeer Kumar Nayak, O.A.S(SAG)
Addl. Commissioner, Addl. Revisional Court No. III, Bhubaneswar)

Chittaranjan Jena ... **Petitioner**

-Versus-

Settlement Officer, Cuttack & another ... **Opp. Parties.**

For the Petitioner : Mr. Nirmal Kishore Rath, Advocate & Associates

For Opposite Party No. 1 : Mr. H. Choudhury, Addl. Standing Counsel

For Opposite Party No. 2 : Mr. Jagannath Das, Advocate & Associates

Odisha Survey and Settlement Act, 1958 – Section 32 – Revision Petition – Maintainability – Res Judicata – Suppression of material facts – The petitioner challenged the settlement recording of an area of Ac.0.069 dec. under Hal Plot No. 290 carved out in favor of Opposite Party No. 2. The Revisional Court observed that the validity of the registered sale deed dated 31.10.1994 executed in favor of Opposite Party No. 2 had already been conclusively upheld by the Hon'ble High Court in W.P.(C) No. 33177 of 2011, establishing her absolute title over the land. It was further established that the petitioner had suppressed critical material facts, including the dismissals of a civil suit (C.S. No. 1635/2019) and a subsequent appeal (CMA No. 124/2023) involving the same subject matter and parties. Held, a revision petition cannot be entertained where the matter has already been agitated, heard, and conclusively decided by competent forums on merits. The principle of Res Judicata under Section 11 of the Civil Procedure Code is fully attracted, disentitling the petitioner from seeking any fresh relief. Revision Petition disallowed.

DECISION

This Revision has been filed with a delay condonation petition U/s 5 of Limitation Act and the delay for filing the Revision mentioned therein is considered. Delay has been condoned and case was admitted.Notice issued to Opp. Party through Regd. Postdeemed sufficient. OP-2 appeared though her Counsel and filed written note of objection which is taken into record.

Counsel for the petitioner, Counsel for OP-2 and Addl. Standing Counsel for the State are present. Heard them on the merit of the case and perused the relevant records/reports from the concerned Authorities and documents submitted by the Petitioner/OP-2 in support of their claim.As per submission, Sabik Khata No. 190, Sabik Plot No. 4611 Ac 5.520 dec of Mouza- Gadakana under Bhubaneswar Tahasil was recorded in favour of Kailash Jena &Baikuntha Jena both are S/o- Krushna Chandra Jena having 8 Anna share, Ugrasen Jena S/o- Chintamani Jena having 4 Anna Share, Chakradhar Jena, S/o- Jayakrushna Jena having 2 Anna Share and Shyam Sundar Jena, S/o- Banamali Jena with 2 Anna Share.

Prime contention of the pleading of the petitioner is that, the suit property is his ancestral property wherein Sabik Khata has not yet been partitioned among all the shareholders by metes and bounds and all are in joint possession over the suit Hal area.The shareholders namelyKailash Chandra Jena and Baikuntha Jena illegally sold an area of Ac.0.069 dec. to UrmilaPatra, W/o Ramesh Chandra Patra (OP-2) by way of a registered sale deed No. 4524 dated 31.10.1994. On the basis of such sale deed, the lower Settlement authorities have illegally carved out a separate Plot No.290 for an area of Ac.069 dec. under Khata No.428 and jointly recorded it in the name of all the shareholders along with the Opp. Party No-2UrmilaPatra in place of Kailash Chandra Jena and Baikuntha Jena.

It is further pleaded by the petitioner that, Hal Plot No.287 is still recorded in the name of all the shareholders and the present suit plot No.290 has been carved out from the said land which is being challenged by the petitioner in the present Revision case. Hence his prayer is to amalgamate this Hal Plot No.290 with Hal Plot No.287, which is recorded jointly in the name of all the shareholders as per 1973 Settlement. In that Khata, the name of OP-2 may kindly be included. It is pleaded

that, when the Sabik plot/land has not yet been partitioned by metes and bounds, how the lower Settlement authorities created a new Plot No.290. So, the action of the said authorities is bad in law which requires interference of this Hon'ble Court.

OP-2 filed her written note of objection. The crux of the objection is that, the Opp. Party No.2 had purchased an area Ac.0.069 dec. from Kailash Jena and Baikunthanath Jena vide Regd. Sale Deed No.4524, dt.31.10.1994 and delivered possession thereof in favour of the Opp. Party No.2 and accordingly a separate Khata has been carved out in favour of the Opp. Party NO. 2 vide Hal Khata No. 428.

It is further submitted that the Opp. Party No. 2 had filed one objection case before the Asst. Settlement Officer to record her name in pursuance to the purchase from 8 anna share holder such as Kailash Jena and Baikuntha Jena as stated above. But unfortunately the learned ASO rejected the objection case bearing No.2880 vide order dt.3.7.2002, stating that neither other shareholder have given their consent nor was present during the hearing of the Objection Case No. 2880.

Opp. Party No. 2 being aggrieved by the said order filed a revision case before the Commissioner of Land Records and Settlement, Odisha, Cuttack U/s.32 of the OSS Act vide Revision Case No.3035/2002. In the said revision case learned commissioner allowed the revision case and remanded the matter before the Settlement Officer for appropriate order. The directive part of the said order is as follows:

"The learned Advocate for the Petitioner is present. This Revision No. 3035/2002 has been filed U/s 32 of the OSS Act 1958 in absence of any order passed by the Appellate Court.As no appeal has been filed the Settlement/Charge Officeris to treat and hear the petition U/s. 22 of the Act and notice all the parties including any party whose interest is likely to be affected by the order of the Appellate Court and decide the case of the petitioner on merit before the R.O.R is finally published.

If the claim of this case has already been heard and adjudicated on merit U/s. 22 of the Act by the Appellate Court or the records of the said village have already been finally published then the case be dropped by the Settlement/Charge Officer. With the above observation the case is transferred to the Court of Settlement/

Charge Officer to exercise his suomotu power U/s. 22(2)(a) of the Act and to decide the matter as per law."

Learned Settlement Officer registered an appeal case bearing No.231/2003 U/s *22(2)(a) of the OSS Act,* as per direction of R.P. Case No. 3035/2002. Learned Settlement Officer in his order dtd 21.12.2006, ordered to change the status of the case land from 'Gharabari-1' to 'Bagayat-2' and to record the suit Hal Plot No. 290 with an area Ac 0.070 dec in the name of OP-2 UrmilaPatra along with others.

Being aggrieved upon the said order of the learned Settlement Officer, the Opp. Party No. 2 challenged the said order before the Hon'ble High Court of Orissa by filing Writ Application vide W.P.(C) No.33177 of 2011.Hon'ble High Court vide order dt.23.9.16 allowed the Writ Application inter alia holding the sale deed of Opp. Party No-2 UrmilaPatra is valid accordingly set aside the orders of both the courts such as ASO and Settlement Officer and directed ASO that the purchased land of the Opp. Party No. 2 UrmilaPatra should be recorded in her name.

In pursuance to such order of Hon'ble High Court a suomotu Mutation Misc. Case has been initiated before the learned Tahasildar Bhubaneswar as per the letter of Settlement Officer, Major Settlement Cuttack vide Mutation Misc. Case bearing No.20518/2016. Accordingly a new Khatian has been carved out in the name of UrmilaPatra under Khata No.428, Plot No.290, areaAc.0.069 dec. Later, the same has been converted to Homestead in OLR case 8(A) Case No. 21574/2025.

It is further submitted by the OP-2 that, petitioner challenged the aforesaid Mutation Misc. Case before the Learned Sub-Collector Bhubaneswar by filing Mutation Appeal bearing No.231 of 2019. But said mutation appeal has been quashed by the Hon'bleHigh Court in W.P.(C) No.11376/2020 filed by the OP-2 as against Mutation Appeal bearing No.231 of 2019, vide their order dt.23.11.2020.

Irrespective of the same the petitioner also filed a civil suit against the opp. Party No. 2 vide CS NO. 1635/2019 which has been dismissed on dtd. 07.07.2023 by the Hon'ble Civil Judge Senior Division Bhubaneswar. And thereafter the said petitioner also filed a CMA bearing No. 124/2023, which has also been dismissed vide order dt. 13.05.2024.

In view of the aforesaid factual background, OP-2 stressed upon that as this Revision petition lost his force and petitioner has suppressed all these material facts about the case land, and as the matter has already been conclusively decided on its merits by a competent Court i.e. the Hon'ble High Court and accordingly a separate ROR has been issued in favour of the Opp. Party No. 2, filing of this Revision petition itself will attract the provision of Res judicata. Under the aforesaid facts and circumstances, OP-2 prayed that the revision petition may be dismissed with exemplary cost.

Heard both the parties. Gone through all the relevant documents. Perused the R.S.D., objection case bearing No.2880, Order of the Commissioner of Land Records and Settlement, Odisha, Cuttack in Revision Case No. 231/2003 filed U/s.32 of the OSS Act, Order of Appeal case bearing No.231/2003, Order of Hon'ble High Court in W.P.(C) No.33177 of 2011, Order of Tahasildar Bhubaneswar in Mutation Misc. Case bearing No.20518/2016, Order of Hon'bleHigh Court in W.P.(C) No.11376/2020 filed by the OP-2 as against Mutation Appeal bearing No.231 of 2019, Civil Suit Order against the opp. Party No. 2 vide CS NO. 1635/2019.

The prime contention/issue of the present Revision as pleaded by the petitioner is that whether the sale transaction executed by Kailash Chandra Jena and Baikuntha Jena in favour of UrmilaPatra, W/o Ramesh Chandra Patra (OP-2) by way of a registered sale deed No. 4524 dated 31.10.1994 is illegal and whether the act of lower settlement Authorities is not tenable in the eyes of law by creating a separate new plot vide Hal Plot No. 290 in the name of UrmilaPatra (OP-2).

On perusal of all the Orders as stated above and by going through the all relevant documents, this Court is convinced that, the sale transaction made between Kailash Chandra Jena and Baikuntha Jena in favour of UrmilaPatra, vide RS.D.No. 4524 dated 31.10.1994 has already been settled in the Order of Hon'ble High Court in WPC No. 33177/2011 wherein in para-7 of its order dtd 23.09.2016 clearly says that

'Since the sale deed is valid for the reason of sale of land by the true owners of the land in their full right title interest, this Court finds neither there was any illegality in the same nor any illegality in the claim of the petitioner.'

Accordingly, Hon'ble High Court has allowed the writ petition and directs for inclusion of the name of the petitioner (Smt. UrmilaPatra) in the record of rights confirming the extent of land purchased vide R.S.D. Accordingly, Tahasildar Bhubaneswar has mutated the suit land i.e. an area Ac 0.069 decin the name of UrmilaPatra under Khata No.428, Plot No.290.

Hence as the prime contention of the Revision Petition has already been settled by the Hon'ble High Court vide WPC No. 33177/2011, this Court finds the pleading of the of the petitioner has no weightage and stands no merit. Petitioner has supressed all these facts (as stated above) in his pleading. Moreover this Revision Petition attracts the principle of Res judicata. As per Section 11 of CPC "*No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."*

In the present case, as the suit land has already been recorded in the name of UrmilaPatra (OP-2) as per the order of Hon'ble High Court in WPC No. 33177/ 2011 vide their Order dtd 23.09.2016 wherein both the petitioner and OP-2 of this Revision petition were a parties to the WPC. In view of all the above facts and materials available as stated above, this Court is convinced that theclaim of the petitioner cannot be entertained and consequentially the Revision Petition is DISALLOWED.

Accordingly, the revision case stands disposed of.

Pronounced the order in the open court today i.e. on 26th February 2026.

Sd/-
Additional Commissioner,
Addl. Revision Court No. III, Bhubaneswar

MISC. Case No. 04 of 2022

(Arising out of R.P. Case No. 587 of 2015)

Decided on 13.07.2026

(Order by Sumita Sarkar, O.A.S(SS)
Addl. Commissioner, Settlement & Consolidation, Kataka)

State of Odisha represented by
The Tahasildar, Kataka Sadar, Kataka ... **Petitioner**

-Versus-

P. K. Sahoo & another ... **Opp. Parties.**

For the Petitioner	:	Mr. K. K. Das, Standing Counsel
For Opposite Party No. 1	:	Sri P. K. Jena, Advocate
For Opposite Party No. 2	:	Sri N. Nanda, Advocate

The Court of the Additional Commissioner(C&S), Katakaheld that the review/modification petition was maintainable under Section 7 of the Orissa Board of Revenue Act, 1951 read with Rule 4 of the 1959 Rules. It found that the original revision had been disposed of without notice to affected parties, without furnishing a copy to the State, and without obtaining the Tahasildar's report despite involvement of Government land. Holding that these lapses violated principles of natural justice, the Court held that the Misc. Case is maintainable. Hence, restored R.P. Case No. 587 of 2015 for fresh hearing and disposed of the Misc. Case accordingly.

D E C I S I O N

This Case is taken up today.

The matter is taken up afresh for hearing on the question of maintainability of Misc. case No. 04 of 2022 arising out RP case No. 587 of 2015 pursuant to the order of the Hon'ble High Court of Orissa in WP(C) No. 19534 of 2025. The brief history of the Misc. Case No. 04 of 2022is as follows.

The present Misc. Case was filed by the Tahasildar, CuttackSadar seeking review of the order passed in RP Case No. 587 of 2015 dtd. 04.03.2020, whereby Govt. land was directed to be recorded in favour of the private parties. The learned Standing Counsel for the petitioner (the State) contended that the original revision was disposed of without notice to the affected parties, without hearing the state and without obtaining Tahasildar report regarding the suit land i.e Govt. land.The said Misc. Case no. 04 of 2022 was held maintainable by the then Addl. Commissioner, C&S, Cuttack vide order dtd. 05.09.2023. Further, pursuant to the direction of the Hon'ble High Court of Orissa in WP(C) No. 4068/2024, the question of maintainability of the Misc. case was again examined. Upon consideration of the section 7 of the Board of Revenue Act, 1951 read with Rule 4 of Odisha Board of Revenue Rules, 1959, the Misc. Case was held maintainable and the original RP Case No. 587 of 2015 was restored for fresh hearingvide order dtd. 04.06.2025. Accordingly, the Misc. Case was disposed of.

Presently, pursuant to the order of Hon'ble High Court Orissa in WP(C) No. 19534 of 2025 for fresh hearing on the question of maintainability of Misc. Case No. 04 of 2022, heard the Learned Counsel appearing for the parties at length. Perused the Recordsand theprovisions of law applicable to the case.

The Learned Counsel for Opposite Party No.1 submitted that the Misc. Case is not maintainable in law. It is contended that the Tahasildar has no locus standi to file the present Misc. Case and is bound to implement the order passed in R.P. Case No.587 of 2015 in view of Rule 35 of the OSS Rules, 1962 citing the judgement passed by the Hon'ble High Court of Orissa in WP(C) No. 9839 of 2014 in the matter of Sanatan Acharya -Vrs- TahasildarPanposh& others. It is further contended that as per order 47 Rule 1 Sec. 114 - Review jurisdiction is extremely limited and unless there is mistake apparent on the face of the record, the order/judgement does not call for review. The mistake apparent on record means that the mistake is self-evident, need no search and stares at its face. Review jurisdiction is not an appeal in disguise. Review does not permit rehearing of the matter on merit. Moreoverthe Misc. Case has been filed beyond the prescribed period of limitation and is therefore liable to be dismissed.

Per contra, the learned Standing Counsel for the State submitted that the Tahasildar, being the custodian and protector of Government land within his jurisdiction, is competent to bring to the notice of this Court any illegality or procedural irregularity affecting Government property. It is argued that by order dated 04.03.2020 passed in R.P. Case No.587 of 2015, land recorded in Government Khata was directed to be recorded in favour of private parties without issuance of notice to the State Government and without calling for any report from the Tahasildar, CuttackSadar. The Tahasildar was a party to the original revision proceeding and being aggrieved by the said order which adversely affects Government interest, has filed the present Misc. Case seeking appropriate relief for protection of Government property.Regarding limitation, the learned Standing Counsel submitted that under Section 7(2) of the Board of Revenue Act, 1951, the Board possesses the discretion to admit an application beyond the prescribed period on sufficient cause being shown. It is further submitted that Government property being involved in the present case, prior approval of the Government has been obtained vide Letter No.19084/R&DM dated 27.05.2025 as required under Rule 4 of the Board of Revenue Rules, 1959 for review of the Misc. Case.

The opposite parties haveraised the questionofmaintainability of the Misc. Case on the following two grounds.

i) That the Tahasildarcannot entertain a Misc. application representing the state.

ii) That the Misc. application itself essentially seeks review of the order but filed beyond the period of limitation.

At the outset it is necessary to refer to section 7 of the Board of Revenue Act, 1951 which provides that

*"**7. Power of Board to review any order.***

(1) ***The Board may either on its own motion or on the application of any person aggrieved by any order of the Board, review any order passed by itself and pass such order in reference thereto as it thinks fit :Provided that no order shall be varied or reversed unless notice***

has been given to the parties interested to appear and be heard in support of such order.

(2) ***Every application under Sub-section (1) for a review of any order shall be made within three months from the date of the order :Provided that the Board may in its discretion in any case extend such period, if sufficient reasons be shown for so doing***"

Further, Rule 4 of the Board of Revenue Rules 1959 regulates the exercise of such power and prescribes the procedure relating to review petition which is as follows.

Rule 4 " ***With the prior approval of the State Government, the Member shall, in the absence of the authority which passed the original order, hear applications for review in the capacity of his successor in office***."

The statutory framework therefore expressly recognizes the jurisdiction of the authority to entertain an application seeking reconsideration of an earlier order. Accordingly, in order to review the Misc. Case prior approval of the Govt. has been obtained vide Lt. No. 19084/R&DM dated 27.05.2025. The contention that the Tahasildar lacks locus standi to maintain the present proceedings is wholly misconceived. The Tahasildar is a statutory Revenue Officer entrusted with the administration, protection and management of Govt. land and public property within his jurisdiction under the relevant provisions of Odisha Revenue laws.

Whenever any order passed by a RevisionalCourt is perceived to have affected Govt. interest, public records or state property, the Tahasildar is not only competent but also duty bound to bring such facts to the notice of thecompetent authority. The present proceeding has not beeninstituted by the Tahasildar in his personal capacity, rather the application has been filed in discharge of his official functions as a Revenue Officer representing Govt. interest. Therefore the objection regarding locus standi is devoid of merits.

The Govt.property cannot be lost because of technical objections. The Supreme Courtin Indian Bank -Vrs- Satyam fibers (India) Pvt. Ltd (1996) 5 SCC 550 held that every Court or Tribunal has inherent power to recall an order obtained through mistake, misrepresentation or suppression of material facts.

Similarly United India Insurance Co. Ltd –Vrs-RajendraSingh (2000) 3 SCC 581 held that no Court or Tribunal is powerless to recall an order which result in miscarriage of Justice.

As regards the Second Objection, it is necessary to bear inmind that the issue presently under consideration is not whether the applicant/ petitioner ultimately succeeds in Misc. Case but whether the proceeding itself is maintainable in law.

Section 7 of the Board of Revenue Act. 1951 empowers the Board and its delegate authorities to review their orders either suo-moto or on an application made by an aggrievedperson. Rule 4 of Board of Revenue, Rules 1959 further regulates the exercise of such jurisdiction. The combined readings of the aforesaid provisions leaves no manner of doubt that the statute itselfrecognizes the jurisdiction of the authority to entertain an application seeking reconsideration of an earlier order in appropriate circumstances.

It is equally well settled that a proceeding cannot be rejected as non-maintainable merely because of a plea of limitation has been raised. Limitation is ordinarily a mixed question of law and fact and unless the statute expressly bars the entertainment of the proceeding, the issue requires adjudication upon consideration of the pleadings and materials on record. Therefore the plea of limitation by itself cannot result in dismissal of the proceeding at the threshold.

Moreover,where an authority is called upon to examine allegations affecting the legality of its own order and involving public interest on Govt. land,the issue cannot be foreclosed merely on technical considerations without examining the matter on merit.

The Court is also mindful of the principle laid down by the Hon'ble Supreme Court in State of Punjab Vrs. ShamlalMurari (1976) 1 SCC 719 that procedural law is intended to advance justice and not to defeat it. The administration of justice cannot be rendered subservient to technical objections when substantial questions affecting publicrecords and Govt. interest are raised for consideration.

In view of the foregoing discussions, both thepreliminary Objections raised by theOpposite Parties in this Misc. Case are hereby rejected.Consequently, this Court holds that Misc. Case is maintainable. Hence, the Misc. Case is allowed andoriginal RP Case No 587 of 2015 is hereby restored for hearing on merit. Accordingly, Misc. Case no. 04 of 2022 is disposed of.

Pronounced the order in the open Court todayi.e 13th July, 2026.

Sd/-
Additional Commissioner,
Settlement & Consolidation, Kataka

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August 22.

MAHANT SANKARSHAN RAMANUJA DAS GOSWAMI ETC., ETC.

v.

THE STATE OF ORISSA AND ANOTHER.

(J. L. KAPUR, K. SUBBA RAO, M. HIDAYATULLAH, J.C. SHAH and RAGHUBAR DAYAL, JJ.)

Estates Abolition—Amending Act enlarging meaning of estate—Constitutionality of—Minor Inams—If estates—Orissa Estates Abolition Act, 1951, (Orissa 1 of 1951), as amended by Orissa Estates Abolition (Amendment) Act, 1954, Orissa XVII of 1954) s. 2(g)—Constitution of India Art. 31-A.

The appellants were holders of pre-settlement minor inams. The grants were not of whole villages but of certain lands and they comprised both the *melwaram* and *kudiwaram* rights in the lands. The definition of 'estate' in the Orissa Estates Abolition Act, 1951, did not include a minor inam. But by the Orissa Estates Abolition (Amendment) Act, 1954, the definition was enlarged to cover minor inams also. Both the Acts had received the assent of the President. The appellants contended (i) that the Amendment Act of 1954 was not a law for the compulsory acquisition of property for a public purpose and was not saved by Art. 31A of the Constitution and (ii) that the minor inams were outside the scope of the Abolition Act and could not be resumed.

Held, that the Amendment Act of 1954 was valid and was within the Protection of Art. 31A. In assenting to this Act, the President assented to new categories of properties being brought within the operation of the abolition Act of 1951, and he, in fact, assented to the law for the compulsory acquisition for public purpose of these new categories of property. Though the minor inams were not of whole villages and included both the *warams*, they were nevertheless '*inams*" and the Constitution defined an "estate" as including "any" inam and fell within the scope of Abolition Act of 1951 as amended in 1954.

The *ejusdem generis* rule cannot be applied to *Inam* in the definition of "estate" in Art. 31A(2)(a) because particular categories like "*jagir, inam* or *muafi*", are included in the definition expressly even though the rule may apply to "other similar grants" which expression may take its colour from the categories named. The *ejusdem generis* rule is applicable where a wide or general term has to be cut down with reference to the genus of the particular terms which precede the general words.

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CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 474 to 501, 503 to 505, 508 to 512, 514 and 515 of 1959.

Appeals from the judgment and orders dated November, 28, 1956, in O. J. C. No. 213 of 1955 and dated December 4, 1956, of the Orissa High Court in O. J. C. Nos. 214 to 216, 218, 236 to 241, 244 to 248, 251, 261 to 264, 268, 269, 271, 279 to 282, 304 to 306, 318, 323, 324, 353, 357, 363 and 372 of 1955.

A. V. Viswanatha Sastri and *M. S. K. Sastri,* for the appellants (in C. As. Nos. 474—487, 489—501 503—505 and 508—510 of 1959).

M. S. K. Sastri, for the appellant (In C. A. No. 488/1959).

G. C. Mathur, for the appellants (In C. As. Nos. 511, 512, 514 and 515 of 1959.)

C. K. Daphtary, Solicitor-General of India, B. R. L. Iyengar and *T.M. Sen,* for the respondents.

1961. August 22. The Judgment of the Court was delivered by

Hidayatullah J.

HIDAYATULLAH, J.—These are 38 appeals against the judgment and orders of the High Court of Orissa dated November 28, 1956, by which 42 petitions under Art. 226 of the Constitution filed by the present appellants and some others were dismissed. The High Court certified the cases as fit for appeal to this Court under Art. 132(1) of the Constitution.

The appellants are holders of pre-settlement minor inams in the State of Orissa. Their grants are different both in regard to the time when they were made and the lands involved in them. They were made for performance of services of deities and were classed as *Devadayam* grants in the revenue papers. The grants in all these cases were not of whole villages but of certain lands and hence their classification as minor inams, and they comprised both the *melwaram* and *kudiwaram* rights

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in the lands. It is not necessary to refer to these cases separately, since a single argument was addressed before us involving the consideration whether Notification No.4971-XV-2154-E.A. dated July 15, 1955, issued by the Orissa State Government, and the Orissa Estates Abolition Act, 1951 (Act 1 of 1952) as amended by the Orissa Estate Abolition (Amendment) Act, 1954 (Act XXVII of 1954) were respectively beyond the competence of the State and the Orissa State Legislature.

By the original Act, all estates of the intermediaries were abolished, and on a notification by the Government, such estates vested in Government. By the amending Act, the definition of "estate" was widened to cover even such minor inams, and then the impugned notification was issued. The appellants contend that the original Act and the amending Act were jointly or severally beyond the competence of the State Legislature, and that the notification above-mentioned was void without any effect.

The Bill resulting in the original Act was introduced on January 17, 1950, and the Act was passed by the Legislative Assembly on September 28, 1951. It was reserved for the consideration of the President, who gave his assent on January 23, 1952. In the Act, before its amendment in 1954, "estate" was defined as follows :

> "2(g) 'Estate' means any land held by an intermediary and included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes revenue-free lands not entered in any register and all classes of tenures or under-tenures, or an inam estate or part of an estate."

By the amending Act of 1954, this definition was substituted by another, which read :

"2(g) 'Estate' includes a part of an estate and means any land held by or vested in an intermediary and included under one entry in any revenue roll or any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law relating to land revenue for the time being in force or under any rule, order, custom or usage having the force of law, and includes revenue-free lands not entered in any register or revenue-roll and all classes of tenures or under tenures and any jagir, inam, or muafi or other similar grant."

In the original Act as well as in the Act as amended, there was a general provision in s.2(q) which may be read here :

"(q) All words and expressions used in this Act but not defined in it, shall have, with reference to any part of the State of Orissa, the same meaning as defined in the tenancy laws and rules for the time being in force and in the absence of written laws and rules, as recognised in the custom for the time being obtaining in that part of the State of Orissa."

In the original Act, a provision was inserted by s.3 of the amending Act to the following effect :

"3. For the purpose of removal of all doubts it is declared that such lands and such rights in relation thereto and such persons who hold such lands and such rights as were heretofore covered by the definitions of the words 'estate' and 'Intermediary' in the Orissa Estates Abolition Act, 1951, shall not cease "to be so covered merely on the ground that by virtue of the provisions of this Act the said definitions have been amended and widened in scope."

The meaning of the last provision is clear. It takes away nothing from the ambit of the old definition,

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but only adds thereto, as indeed the new definition of "estate" introduced by the amending Act shows only too plainly in its terms.

To complete the survey of the provisions which we may have to refer to in this judgment, we first set down the definition of "estate" as given in the Madras Estates Land Act, 1908, which was applied to Orissa. Section 3(2)(d) of that Act defined "estate" as:

> "Any inam village, of which the grant has been made, confirmed or recognised by the Government, notwithstanding that subsequent to the grant the village has been partitioned amongst the grantees or the successors in title of the grantee or grantees."

The argument in this case is based upon this definition, because in defining an 'estate', whole villages which were inam were contemplated and not minor inams of lands only. We shall refer to this later.

The amending Act was also reserved for the consideration of the President and was assented to by him. When the Constitution was brought into force, the Bill of the Original Act had already been introduced in the Assembly. On June 18, 1951, before the Act was passed by the Legislative Assembly, the Constitution (First Amendment) Act, 1951 had been enacted, and Art. 31A inserted with retospective operation in the Constitution. Article 31A provided:

> "31A.(1) Notwithstanding anything contained in article 13, no law providing for—
>
> (a) The acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights...
>
> shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights

conferred by article 14, article 19 or article 31;

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the "consideration of the President, has received his assent.

(2) In this article

(a) the expression 'estate' shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir, inam,* or *muafi* or other similar grant....."

Article 31, before it was amended, by the constitution (Fourth Amendment) Act, 1955, provided *inter alia* that no property shall be acquired for a public purpose unless the law provided for compensation, and either fixed the compensation or specified the principles on which the compensation was to be determined and given. (Cl.2). By cl. (3), it was provided that no law such as was referred to in cl. (2) was to have effect unless such law having been reserved for the consideration of the President had received his assent. Clause (4) then provided :

"(4) If any Bill pending at the commencement of this constitution in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution, the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2)."

The combined effect of these provisions of the Constitution was that there could be no compulsory acquisition of property for public purposes, unless the law provided for payment of compensation;

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but the law could not be called in question on this ground if it had been reserved for the consideration of the President and had been assented to by him. The assent of the President was a condition precedent to the effectiveness of the law. By the amendment of the Constitution and the addition of Art. 31A, no such law was to be deemed to be void on the ground that it was inconsistent with or took away or abridged any of the rights conferred by Art.14, Art.19 or Art.31, provided that it had been reserved for the consideration of the President and had received his assent. By the definition clause, Art. 31A(2)(a), the expression "estate" was to have the same meaning in any local area, which it or its equivalent had in the existing law relating to land tenures in force in that area but was to include among others any *'inam'*.

The contention of the appellants is really twofold. The first argument is that the benefit of Art. 31A might have been available to the original Act, as it was a law for the compulsory acquisition of property for public purposes but not to the amending Act, which was not such a law but only amended a previous law by enlarging the definition of "estate". The second argument is that the word "estate" as defined in s.2(g) before its amendment did not apply to pre-settlement minor inams of lands as it applied only to an "inam estate", and an "inam estate" had the meaning which the definition of "estate" had in the Madras Estates Land Act, viz., only whole "inam villages". This, it is urged, follows from the provisions of s.2(q) of the Estates Abolition Act quoted earlier.

The first argument is clearly untenable. It assumes that the benefit of Art.31A is only available to those laws which by themselves provide for compulsory acquisition of property for public purposes and not to laws amending such laws, the assent of the President notwithstanding. This means that the whole of the law, original and amending, must be passed again, and be reserved for the

consideration of the President, and must be freshly assented to by him. This is against the legislative practice in this country. It is to be presumed that the President gave his assent to the amending Act in its relation to the Act it sought to amend, and this is more so, when by the amending law the provisions of the earlier law relating to compulsory acquisition of property for public purposes were sought to be extended to new kinds of properties. In assenting to such law, the President assented to new categories of properties being brought within the operation of the existing law, and he, in effect assented to a law for the compulsory acquisition for public purposes of these new categories of property. The assent of the President to the amending Act thus brought in the protection of Art. 31A as a necessary consequence. The amending Act must be considered in relation to the old law which it sought to extend and the President assented to such an extension or, in other words, to a law for the compulsory acquisition of property for public purposes.

The argument that this was not an acquisition of an inam estate comprising a whole village and thus outside the Abolition Act itself has no substance. No doubt, these minor inams were not of whole villages but of lands and the grant included both the *warams* and there were thus no intermediaries. But they were inams nevertheless, and the Constitution defined and 'estate' an including 'any inam', and the amending Act merely followed that definition. The extended definition in the Constitution and a similar extended definition in the Act thus exclude resort to the general definition clause in s.2(q) of the Abolition Act and the definition of "estate" in the Madras Estates Land Act. The definition of "estate" introduced by the amending Act is sufficiently wide to cover such minor inams, and s.2(q) only applies, if a word or expression used in the Abolition Act is not defined therein.

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If the minor inams are already within the definition of the word "estate", there is no need to go to s.2(q) or to any local law defining the word. There can be no doubt that if the new definition of "estate" applies to minor inams, then they are affected by the Abolition Act. This, indeed, was conceded.

Learned counsel for the appellants also urged, through somewhat faintly, that the *ejusdem generis* rule should be applied to the definition of "estate" in Art. 31A(2)(a) as also to the corresponding new definition in the Abolition Act. This argument proceeds upon an assumption for which there is no foundation. The *ejusdem generis* rule is applicable where as wide or general term has to be cut down with reference to the genus of the particular terms which precede the general words. This rule has hardly any application where certain specific categories are 'included' in the definition. The *ejusdem generis* rule may be applicable to the general words "other similar grant", which would take their colour from the particular categories, "*jagir, inam,* or *muafi*", which precede them, but the word "inam" is not subject to the same rule. Once it is held that inams of *any kind* were included, it makes little difference if the inams were of lands and not of whole villages. So also the fact that the holders of such inams cannot be described as intermediaries, or that they comprised both the *melwaram* and the *kudiwaram* rights. Such a distinction would have significance, if the law abolished only intermediaries and not inams which it did. Section 3 of the Abolition Act says :

> "3(1) The State Government may, from time to time by notification, declare that the estate specified in the notification has passed to and become vested in the State free from all encumbrances."

If the definition of the word "estate" was wide enough to include a minor inam and a notification was issued, the consequences of s.3 of the Abolition

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Act must follow. Such a law is not capable of being called in question on the ground that it abridges any fundamental right conferred by Arts.14, 19 and 31, if it has been assented to by the President. The notification was thus valid, if the law was valid.

In the result, the appeals fail, and are dismissed with costs, one set only.

Appeals dismissed.

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August 24.

DHANESHWAR NARAIN SAXENA

v.

THE DELHI ADMINISTRATION

(B. P. SINHA, C. J., S. K. DAS, A. K. SARKAR, N. RAJAGOPALA AYYANGAR and J.R. MUDHOLKAR, JJ.)

Prevention of Corruption—Public servant—Misconduct, not in the discharge of one's duty—Corrupting other public servant—Criminal Misconduct—Ingredients of offence—Prevention of Corruption Act, 1947 (2 of 1947), ss. 5 (1) (d), 5 (1) (d).

The appellant who was an Upper Division Clerk in the office of the Chief Commissioner of Delhi was convicted of an offence under s. 5 (1) (d) of the Prevention of Corruption Act, 1947, punishable under s. 5 (2) of the Act. The prosecution case was that R who was anxious to obtain a licence for a double-barralled shot-gun sought the assistance of the appellant who knew him, that the appellant who had nothing to do with the issuing of licences for firearms which was done by the office of the Deputy Commissioner, offered to use his good offices in expediting and furthering the progress of R's application for a licence in the appropriate department if he was paid Rs. 250/-, and that when the licence was cancelled on its being found that R was not entitled to it the appellant promised to have it restored if he was paid a further sum of Rs. 180/-. The trial Judge found that the appellant taking advantage of his position as an employee in the Chief Commissioner's office and of R's ignorance and anxiety to get the licence, had induced him to part with the money on the promise that he would get his licence restored. The appellant pleaded that on the facts found no offence under s. 5(1)(d) of the Act had been made out and relied on *State of Ajmer* v. *Shivji Lal*, (1959) Supp. 2 S. C. R. 739.