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ORISSA HIGH COURT : CUTTACK

WP(C) No.3304 of 2025

An application under Articles 226 & 227 of the Constitution of India.

* * *

Shanti Mahananda

...

Petitioner.

-VERSUS-

Sub-Collector, Sadar, Sambalpur & Others

...

Opposite Parties.

Counsel appeared for the parties:

For the Petitioner : Mr. A.P. Bose, Advocate

For the Opposite Parties : Mr. S. Palit, Sr. Advocate.
Mr. K.P. Das, Advocate
(Opp. Party No.3)
Mr. S. Nayak, Add. Standing Counsel.
(Opp. Party Nos.1 & 2)

P R E S E N T:

**HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA**



Date of Hearing : 09.07.2025 :: Date of Judgment : 23.07.2025

JUDGMENT

ANANDA CHANDRA BEHERA, J.—

1. This writ petition under Article 226 & 227 of the Constitution of India, 1950 has been filed by the petitioner praying for quashing the final order dated 21.09.2024 (Annexure-1) passed in Mutation Appeal No.115/2022 by the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1) and its consequential order.

2. The case of the petitioner is that, she (petitioner) had previously filed Mutation Case No.740 of 2019 before the Tahasildar, Maneswar (Opp. Party No.2) for correction of the R.o.R of case land to her name, but that Mutation Case No.740 of 2019 was rejected by the Tahasildar, Maneswar (Opp. Party No.2).

After rejection of that Mutation Case No.740 of 2019, the petitioner again filed an another Mutation Case vide Mutation Case No.1905 of 2022 before the said Tahasildar, Maneswar (Opp. Party No.2), but that Mutation Case No.1905 of 2022 filed by the petitioner was allowed by the Tahasildar,



Maneswar (Opp. Party No.2), to which, the Opp. Party No.3 of this writ petition (Prasanta Rajhans) challenged the same by filing Mutation Appeal No.115 of 2022 before the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1) and the said Mutation Appeal was allowed as per order dated 21.09.2024 (Annexure-1) and the order passed in Mutation Case No.1905 of 2022 was set aside and *that matter vide Mutation Case No.1905 of 2022 was remitted back to the Tahasildar, Maneswar (Opp. Party No.2) for its fresh adjudication taking into consideration the will dated 03.09.2016 executed by Debakinanda Khandayat in favour of Prasanta Rajhans (Opp. Party No.3) and to decide that Mutation Case No.1905 of 2022 on the basis of title.*

3. On being aggrieved with the said order dated 21.09.2024 passed in Mutation Appeal No.115 of 2022 by the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1), the petitioner challenged the same by filing this writ petition praying for quashing that final order dated 21.09.2024 (Annexure-1) passed in Mutation Appeal No.115 of 2022 and its consequential order.



4. I have already heard from the learned counsel for the petitioner, learned Senior Counsel for the Opp. Party No.3 and the learned Addl. Standing Counsel for the State.

5. After hearing from all the learned counsels of the parties, it is held that, though the final result of the impugned order dated 21.09.2024 (Annexure-1) passed in Mutation Appeal No.115 of 2022 by the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1) concerning the remand of Mutation Case No.1905 of 2022 to the Tahasildar, Maneswar (Opp. Party No.2) for its fresh adjudication is not unsustainable under law, but the particular observation in that impugned order vide Annexure-1

i.e. “to decide that Mutation Case No.1905 of 2022 on the basis of the title is unsustainable under law.”

Because, according to Para No.47 of the Odisha Mutation Manual, the Tahasildar has to decide a mutation case on the basis of prima facie title coupled with possession, but not on the basis of title only.

6. So, the writ petition filed by the petitioner is to be allowed in part without interfering with the final result of the impugned order dated 21.09.2024 passed in Mutation Appeal



No.115 of 2022 by the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1), but only interfering with the particular observation i.e. *for deciding the Mutation Case only on the basis of title*, as the same is incorrect. Because, as per law, the Mutation Case shall be decided on the basis of prima facie title coupled with possession, but not on the basis of title only.

7. In result, without interfering with the final finding/result of the final order dated 21.09.2024 (Annexure-1) passed in Mutation Appeal No.115 of 2022 by the Sub-Collector, Sadar, Sambalpur (Opp. Party No.1) concerning the remand of Mutation Case No.1905 of 2022 to the Tahasildar, Maneswar for its disposal afresh, but only interfering with the observation in that Annexure-1 *for deciding that Mutation Case No.1905 of 2022 only on the basis of title* holding that observation as not legal, this writ petition is allowed in part.

8. As such, this writ petition is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

Signature Not Verified

Digitally Signed
Signed by: RATI RANJAN NAYAK
Reason: Authentication of High Court of Orissa, Cuttack
Location: High Court of Orissa, Cuttack, India
Date: 24-Jul-2025 12:05:08
Sr. Stenographer