



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20400 of 2017
ODHC010154822017

Hari Mallik @ Das

.... ***Petitioner***
Represented by
Mr. D.K.Dey, Advocate

-Versus-

Additional Commissioner & Others

.... ***Opp. Parties***
Represented by
Mr. S.N.Pattnaik,
Additional Government Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

24.08.2026

Order No.
09.

1. This matter is taken up through hybrid mode.
2. Notice to Opposite Party No.6 is dispensed with at the risk of the petitioner on his submission.
3. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State.
4. The petitioner has approached this Court with the following prayer:

“It is therefore, prayed that the Hon’ble Court may graciously be pleased to:-

- i) *Admit the writ application;*
- ii) *Call for the records;*
- iii) *Issue Rule NISI calling upon the Opp.Parties to show cause as to why the order dated 09.06.2017 passed in Mutation Case No. 676 of 2017 by the Opp.Party No.2 under Annexure-3 shall not be quashed.*

And

If the Opp.Parties do not show cause or show insufficient cause issue a writ in the nature of



certiorari in quashing the order dated 30.06.2011 under Annexure-3 as stated above.

And further issue a direction to the Opp.Party No.2 to record the land in dispute in the name of the petitioners on the basis of the order passed by the Opp.Party No.1 under Annexure-1.

And pass all other Order/orders, Writ/Writs, direction/directions which would be deem fit and proper in the ends of justice

And for this act of kindness the petitioners as in duty bound shall ever pray."

5. It is submitted that in a revision application filed by the petitioner being Settlement Revision Petition Case No. 47 of 2015. The Additional Commissioner, Settlement and Consolidation by order dated 31.11.2016 allowed the application and directed the Tahasildar, Bhadrak to record the land in question in the name of the petitioner after deleting the same from the concerned Hal Khata. Pursuant to the said order, the Tahasildar, Bhadrak initiated Mutation Case No. 676 of 2017. By order dated 09.06.2017, the Tahasildar having found that the land stood recorded in the name of Smt. Sunita Pattnaik @ Dhir (present Opposite Party No.6), who was not a party to the revision filed by the petitioner, expressed his inability to comply with the order of the Revisional Court.

6. Mr. Dipak Kumar Dey, learned counsel for the petitioner submits that the Tahasildar could not have refused to comply with the instructions/directions of the superior authority as it is in violation of Rule 35 of the OSS Rules.

7. Mr. S.N.Pattnaik, learned AGA on the other hand, submits that while it is true that the Tahasildar cannot go against the order



passed by the superior authority but factually the case land being recorded in the name of another person, it would not be possible on his part to decide the case as directed by the Revisional Court.

8. After hearing the learned counsel for the parties and on going through the order passed by the revisional Court as well as the Tahasildar, this Court is of the view that the dispute appears to be civil in nature. As it involves a question being raised against the title of Opposite Party No.6 by the petitioner, the Civil Court is the appropriate forum for its adjudication.

9. Accordingly, the writ application is disposed of leaving it open to the petitioner to approach the competent Civil Court for redressal of his grievance.

10. It goes without saying that the petitioner having pursued the remedy before the Revenue Court as well as before this Court, he would be entitled to seek exclusion of time under Section 14 of the Indian Limitation Act.

11. Urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge