



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.19098 of 2026

Jagannath Dharei

....

Petitioner

Mr. Gokula Nanda Sahu, Advocate

-versus-

State of Odisha & others

....

Opposite Parties

Mr. Saswat Das, Addl. Government Advocate

CORAM:
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.
01.

ORDER
14.07.2026

1. Challenging the order dated 14th May, 2026 passed by the learned Sub-Collector, Sadar, Sundargarh in Mutation Appeal Case No.82 of 2025 setting aside the order dated 15th May, 2025 passed by the learned Tahasildar, Balisankara in Mutation Case No.375 of 2025, wherein the Record-of-Right issued in favour of the present petitioner is cancelled, this writ petition has been filed with the following prayer(s):

“In the above premises, it is therefore humbly prayed that this Hon’ble Court may graciously be pleased to:

Issue a writ of Certiorari or any other appropriate writ quashing the order dated 14.05.2026 passed by the Sub-Collector, Sadar, Sundargarh in Mutation Appeal No.82 of 2025;

Further be pleased to declare that the order dated 15.05.2025 passed by the Tahasildar, Balisankara in Mutation Case No.375 of 2025 shall continue to remain operative until set aside in accordance with law;



And/or pass such other order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.

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

2. Referring to a "Willnama" executed on 22nd January, 2002 in favour of the petitioner (Jagannath Dhareei) by Raj Kishore Dhareei with respect to the land admeasuring Ac.2.900 decimals situated at Mouza: Tumulia vide Hal Record-of-Right learned counsel appearing for the petitioner relied on the report of the Revenue Inspector, Tumulia as reflected in the record of proceeding dated 15th May, 2025 maintained by the Tahasildar, Balisankara, which revealed as follows:

*"This case is taken up today. Gone through the C/R. Perused the report of the R.I., Tumulia. In his report, the R.I., Tumulia has mentioned that, **the applicant is possessing the lands** except Plot No.2227 and all the plots mentioned in the Willnama are the exclusive share of Rajkishore Dhareei, S/o. Dambaru Dhareei. The objection petitioner, Indramani Dhareei is the nephew of the Testator. Hence, the prayer portion to reject the Willnama is not considered.*

This case of mutation on the basis of Willnama is allowed. Send the case record to R.K. for correction of ROR."

- 2.1. Mutation proceeding, being Mutation Case No.375 of 2025, on the basis of report of the Revenue Inspector, Tumulia was decided in favour of the petitioner as he was in possession of the lands except Plot No.2227 and all the plots mentioned in the "Willnama" are the exclusive share of Rajkishore Dhareei, son of Dambaru Dhareei.



- 2.2. He submitted that being aggrieved by order dated 15th May, 2025 passed by the Tahasildar, Tumulia notwithstanding objection as regards *Willnama* was raised by the opposite party no.4 – Indramani Dhare, nephew of Rajkishor Dhare (testator of the *Willnama*), Mutation Appeal was filed before the Sub-Collector, Sadar, Sundargarh, who *vide* order dated 14th May, 2026 set aside the mutation order passed by the learned Tahasildar, Tumulia, allowed the mutation appeal.
- 2.3. Dissatisfied with the reason assigned by the Sub-Collector to overturn the view of the Tahasildar, the petitioner has filed this writ petition.
- 2.4. Sri Gokulananda Sahu, learned Advocate would submit that unregistered *Willnama* cannot be doubted and it will have the same probative value as that of registered *Willnama*. Learned counsel appearing for the petitioner submitted that since opposite party no.4– Indramani Dhare questioned the genuineness of the unregistered “*Willnama*” by filing objection before the Tahasildar, Tumulia in the mutation proceeding, the learned Sub-Collector, Sadar, Sundargarh being swayed away interfered with the order of mutation passed by the learned Tahasildar, Tumulia. It is also submitted at the Bar that if the property is situated in the district of Sundargarh, *Willnama* executed in the said district does not require probate. He, therefore, fervently requested to allow this writ petition and show indulgence by restoring to the order of mutation passed by the Tahasildar.



3. Learned Additional Government Advocate appearing for the State submitted that the Appellate Authority has referred and relied on a judgment dated 18th February, 2025 of this Court passed in *W.P.(C) No.1848 of 2025 (Ramesh Chandra Sahu and another vrs. State of Odisha)* by which this Court held that in order to establish the rights, the petitioner has remedy before the Civil Court. Therefore, he vehemently objected for entertainment of this writ petition.
4. This Court has the occasion to peruse the Judgment of co-ordinate Bench rendered in *Ramesh Chandra Sahu (supra)*. It may be worthwhile to refer to relevant portion of said judgment as referred to by the learned Additional Government Advocate appearing for the State:

“13. In order to avoid the similar nature of litigation in future relating to mutation of records on the basis of un-probated Wills in Gadajat areas of the State of Odisha (those were under ex-princely State), it is pertinent to issue the following guidelines to be followed by the Revenue Authorities-cum-Tahasildars, for initiation and disposal of mutation cases on the basis of the un-probated Wills i.e.:

- (i) *The Revenue Authorities including The Tahasildars and others, those are dealing with the mutation cases in the areas inside the State of Odisha (those were under ex-princely State) cannot refuse to entertain/register mutation cases on the basis of un-probated Wills.*
- (ii) *Soon after, registration of a mutation case, on the basis of an un-probated Will, a report is to be called for from the local Revenue Inspector or from any other authentic source, as it deems fit and proper to ascertain the names and addresses of all the legal heirs*



of the testator or testators in the natural line of succession.

- (iii) After ascertaining the names and addresses of all the legal heirs of the testator or testators in the natural line of succession, notices shall be issued to them along with notices to others, if any, as per law inviting their objection and participation.*
- (iv) If after receiving such notices, dispute is raised by the invitees of the notices either in respect of the genuineness of the Will in question or in respect of the properties covered under the said Will, then, the Revenue Authorities or Tahasildars shall drop the mutation proceeding leaving the parties to get their rights crystalized before the civil Court.*
- (v) After crystallization of their rights before the Civil Court, necessary mutation entry can be made by the Revenue Authorities or Tahasildars on the basis of the decree of the Civil Court.”*

4.1. Having heard Mr. Gokula Nanda Sahu, learned counsel for the petitioner and Mr. Saswat Das, learned Additional Government Advocate appearing for the State patiently and considered their submissions diligently.

4.2. The record and the impugned order clearly reveals that by way of *Willnama* though the petitioner is shown to have been in possession as per report submitted by the Revenue Inspector, in order to establish the title on the basis of objection raised *qua* the genuineness of the *Willnama*, this Court is not persuaded to entertain the writ petition in view of the observation and guidelines laid down by the Coordinate Bench of this Court in paragraph-13 of the judgment rendered in the case of *Ramesh Chandra Sahu (supra)*.



5. In the result this Court disposes of the writ petition as not maintainable. However, reserving liberty to the petitioner to approach appropriate forum, if so advised, in accordance with law and in view of the judgment dated 18th February, 2025 passed in the case of *Ramesh Chandra Sahu (supra)*. This writ petition along with pending Interlocutory Application(s), if any, stands disposed of is disposed of.

(M.S. Raman)
Judge

MRS