

**IN THE HIGH COURT OF ORISSA AT CUTTACK****RVWPET No.226 of 2025 with RVWPET No.168 of 2024**

(In the matter of applications under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code, 1908)

Bhubaneswar Sital Sasthi *Petitioner(s)*
Committee, Bhubaneswar

-versus-

State of Odisha & Ors. *Opposite Party (s)*

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner(s) : *Mr. Samir Kumar Mishra, Sr. Adv.*
along with associates
M/s. Prajna Sarita Mohanty, Adv..

For Opposite Party(s) : *Smt. Sarita Moharana, ASC*
Mr. Achyutanandan Pattanaik, Adv.

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-19.01.2026

DATE OF JUDGMENT: -27.02.2026

Dr. Sanjeeb K Panigrahi, J.

1. The present Review Petitions, namely RVWPET No. 168 of 2024 and RVWPET No. 226 of 2025, were taken up together as both relate to the same parcel of land and arise out of the directions issued in separate writ petitions affecting the alleged possession of the review petitioners.
2. Since the controversy involved in both matters is interconnected, the Review Petitions are being disposed of by this common judgment/order.



3. RVWPET No. 168 of 2024 has been filed seeking review of the order dated 05.12.2023 passed in W.P.(C) No. 38779 of 2023. By the said order, directions were issued in respect of the case land, which, according to the review petitioner, have the effect of his eviction therefrom. The grievance put forth is that the said order was passed without impleading him as a party to the writ proceedings, though he claims to be in possession of the subject property.
4. RVWPET No.226 of 2025 has been filed seeking review of the order dated 12.08.2025 passed in W.P.(C) No.17808 of 2025, whereby this Court directed the Bhubaneswar Development Authority to clear the land stated to have been occupied by the present petitioners within a period of one month. The review petitioners contend that the direction was issued without affording them an opportunity of hearing and that the same adversely affects their claimed possession over the case land.

I. FACTUAL MATRIX OF THE CASE:

5. The subject matter of dispute relates to land appertaining to Plot No. 1750 under Khata No. 1214 measuring Ac. 1.370 decimals in Mouza Bhubaneswar Sahar, Unit No. 23, Kapila Prasad, District Khordha. The land is stated to be bounded by a stone wall.
6. It is stated that initially the land was unused due to cutting of stone and used to remain a dry tank in summer and a tank in rainy season. Fifteen days prior to observance of Sital Sasthi Parva of Shree Lord Lingaraj in the year 1986, i.e., on 04.05.1986, the land was cleaned, filled and developed, trees were planted, boundary wall and asbestos house were



constructed and a bore well was dug. More than rupees five lakhs were spent for such development.

7. The Bhubaneswar Sital Sasthi Committee is stated to be observing functions of Shree Lord Lingaraj over the said land and rituals are performed by spending contributions of the Committee.
8. In the settlement operation, the suit land was recorded in the name of the GA Department.
9. W.P.(C) No. 5630 of 2023 was filed seeking initiation of steps for removal of alleged illegal encroachment, which included the case land.
10. By order dated 01.03.2023 passed in W.P.(C) No. 5630 of 2023, liberty was granted to submit a fresh representation to the Director of Estate-cum-Ex-Officio, Addl. Secretary to Government, GA & PG Department, Bhubaneswar, who was directed to consider the same and pass orders in accordance with law.
11. When the State authorities came to the suit land and threatened dispossession, Civil Suit No. 1028 of 2023 was filed before the Court of the learned Civil Judge, Senior Division, Bhubaneswar seeking declaration of right, title and interest over the suit land, confirmation of possession and permanent injunction, impleading the GA Department, Government of Odisha and the Tahasildar, Bhubaneswar as defendants.
12. The GA Department entered appearance and filed written statement in the said Civil Suit on 06.11.2023.
13. On 06.10.2023, a representation was filed before the Land Officer, GA Department stating that Civil Suit No. 1028 of 2023 and an interim



application for injunction were pending in respect of Plot No. 1750 and requesting that eviction not be carried out.

14. W.P.(C) No. 38779 of 2023 was thereafter filed seeking implementation of the order dated 01.03.2023 passed in W.P.(C) No. 5630 of 2023.
15. By order dated 05.12.2023 passed in W.P.(C) No. 38779 of 2023, directions were issued to pursue action initiated and made part of the CEMC Programme with respect to the schedule plot and to ensure removal of encroachment.
16. RVWPET No. 168 of 2024 was filed seeking review of the order dated 05.12.2023 passed in W.P.(C) No. 38779 of 2023 and, by order dated 09.08.2024 passed in I.A. No. 253 of 2024 therein, it was observed that there should not be coercive action against the petitioner till the next date awaiting response of the State, and the said Review Petition remains pending.
17. Thereafter, W.P.(C) No. 17808 of 2025 was filed seeking removal of alleged encroachment over the case land and, by order dated 12.08.2025, directions were issued to clear the encroachment within a period of one month.
18. RVWPET No. 226 of 2025 has been filed seeking review of the order dated 12.08.2025 passed in W.P.(C) No. 17808 of 2025.
19. It is stated that Plot No. 1750 is covered under Trade Licence No. BMC/TL-2023/2096 issued by the Bhubaneswar Municipal Corporation and that Civil Suit No. 1028 of 2023 in respect of the said plot remains pending before the learned Civil Judge, Senior Division, Bhubaneswar.



II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

- 20.** Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:
- (a) It is submitted that in the settlement operation the case land has been recorded in the name of the GA Department wrongly and that the Settlement Authority committed irregularity in recording of the land.
 - (b) It is submitted that when the State Authorities threatened dispossession from Plot No. 1750 under Khata No. 1214, Civil Suit No. 1028 of 2023 was filed before the learned Civil Judge, Senior Division, Bhubaneswar seeking declaration of right, title and interest, confirmation of possession and permanent injunction, and that the GA Department has entered appearance and filed written statement since 06.11.2023.
 - (c) It is submitted that in W.P.(C) No. 5630 of 2023, though eviction was sought for and the case land included Plot No. 1750, the petitioner was never made a party, and by order dated 01.03.2023 liberty was granted to submit representation, pursuant to which representation dated 06.10.2023 was filed stating that Civil Suit No. 1028 of 2023 and interim application for injunction were pending and that eviction may not be carried out.
 - (d) It is submitted that thereafter W.P.(C) No. 38779 of 2023 was filed for implementation of the order dated 01.03.2023 and by order dated 05.12.2023 directions were issued to pursue action under CEMC Programme and ensure removal of encroachment, though the petitioner was not made a party and material facts were not brought to the notice of this Court.



- (e) It is submitted that Review Petition No. 168 of 2024 was filed against the order dated 05.12.2023 and by order dated 09.08.2024 it was observed that there should not be coercive action against the petitioner till next date, and the said Review Petition is pending.
- (f) It is submitted that thereafter W.P.(C) No. 17808 of 2025 was filed seeking removal of alleged encroachment over Plot No. 1750 without making the petitioner a party and without bringing to the notice of this Court the pendency of Review Petition No. 168 of 2024 and the order dated 09.08.2024 passed therein.
- (g) It is submitted that by order dated 12.08.2025 passed in W.P.(C) No. 17808 of 2025, directions were issued to clear the land occupied by the petitioner within one month without hearing him, though the order has adversely affected him, and that the said order runs contrary to the order passed in Review Petition No. 168 of 2024 and would defeat the claim of the petitioner pending in Civil Suit No. 1028 of 2023.
- (h) It is submitted that the case land appertaining to Plot No. 1750 is the suit schedule property of C.S. No. 1028 of 2023 where GA Department has already filed written statement, but this factual aspect was not brought to the notice of this Court.
- (i) It is submitted that the petitioner has been issued Trade Licence No. BMC/TL-2023/2096 over Plot No. 1750.
- (j) It is submitted that when rights of the party are pending for adjudication before the competent Civil Court, the order of eviction should not be carried out and that where a party raises bona fide dispute regarding title over the property, proceeding cannot be adjudicated under OPLE



Act and the Civil Court would have jurisdiction to entertain the suit and grant proper relief.

III. SUBMISSIONS OF THE OPPOSITE PARTIES:

21. Learned counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:

- (a) The RVWPET Petition is not maintainable in law and is devoid of merit. The RVWPET petitioner has no locus standi to challenge the decisions of the representatives of the State, the true owner of the land, without challenging the eviction letters and decisions of the GA & PG Department placed before this Court in earlier proceedings.
- (b) The RVWPET petitioner was impleaded as party No-10 and 14 in W.P.(C) No- 24665 of 2024 disposed of on 19.03.2025 but never challenged the said order and suppressed the same while filing RVWPET No- 226 of 2025.
- (c) In Civil Suit No- 1028 of 2023 the RVWPET petitioner never impleaded this Opp Party No-11 or B.D.A and therefore the plea that the order dated 12.08.2025 would defeat the claim in the said suit is not sustainable.
- (d) The RVWPET is barred by limitation under Section 42 of the Orissa Survey and Settlement Act, 1958 and is liable for dismissal for non-service of statutory notice under Section 80 C.P.C.
- (e) Plot No- 1750, Ac. 1.370 dec, Hal Khata No- 1214, Mouza- Kapilaprasad is recorded in the name of GA Department as Kissam Patita (Pathuria) in Hal ROR published in 1988-89 and the RVWPET petitioner has no right, title, interest or possession over the same.



- (f) Proceedings under OPPE Act including OPP Case No- 44 of 2009 and OPP Case No- 81 of 2024 were initiated regarding encroachment over Plot No- 1750 and earlier status quo order in C.S. No- 315 of 2014 and I.A. No- 198 of 2014 stood dismissed on 22.11.2024.
- (g) By order dated 12.08.2025 in W.P.(C) No- 17808 of 2025 this Hon'ble Court directed B.D.A to execute eviction on the basis of letters and affidavits filed by the Director of Estates in CONTC No- 2124 of 2024 and CONTC No- 5969 of 2023 and the interim order, if any, stood vacated.
- (h) The Trade Licence issued by BMC over Plot No- 1750 treating it as private land is illegal and subject matter of complaint.
- (i) The State Opp Parties, being the true owner, have authority to evict unauthorized encroachment and to safeguard Government land and the order dated 12.08.2025 was passed in interest of justice on the basis of Government records.

IV. COURT'S REASONING AND ANALYSIS:

- 22. Heard the learned counsel for the parties and perused the material placed on record.
- 23. Before advertng to the rival contentions, this Court finds it apposite to highlight the limited scope of review jurisdiction.
- 24. A review is not an appeal in disguise. The power of review is not a power to re-examine the correctness of a decision on merits, but a limited jurisdiction intended to correct a patent error apparent on the face of the record or to consider material which, despite due diligence, was not within the knowledge of the applicant at the time of the original



hearing. An error that becomes apparent only upon re-appreciation of the material on record cannot be regarded as an error apparent within the meaning of review jurisdiction.

25. The Supreme Court in *Inderchand Jain v. Motilal*¹, elucidated the scope of review jurisdiction as follows:

“33. The High Court had rightly noticed the review jurisdiction of the court, which is as under:

“The law on the subject—exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder:

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.”

26. In *Malleeswari v. K. Suguna*², the Supreme Court distinguished between the power of review and appellate power and observed as hereinunder:

¹ (2009) 14 SCC 663.



“...Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase ‘for any other sufficient reason’ means a reason that is sufficient on grounds at least analogous to those specified in the other two categories.”

27. Keeping the aforesaid principles in view, this Court now proceeds to examine whether the orders dated 05.12.2023 passed in W.P.(C) No. 38779 of 2023 and 12.08.2025 passed in W.P.(C) No. 17808 of 2025 suffer from any error apparent on the face of the record warranting interference in review.
28. Insofar as the order dated 05.12.2023 is concerned, the same reflects that this Court, upon noticing that the plot in question had already been included in the demolition drive under the CEMC Programme and that action had been initiated by the competent authority, merely directed opposite party No.3 to pursue the action so initiated and ensure removal

² SCC OnLine SC 1927.



of encroachment. The order neither adjudicated title nor determined inter se rights of the parties. The direction was supervisory in nature, requiring the statutory authority to act in accordance with law.

29. The plea of non-impleadment, as urged in RVWPET No. 168 of 2024, does not disclose any error apparent on the face of the record. The disputes regarding title and possession are already pending before the competent Civil Court in Civil Suit No. 1028 of 2023 and cannot be examined in review jurisdiction.
30. As regards the order dated 12.08.2025 passed in W.P.(C) No. 17808 of 2025, this Court directed the Bhubaneswar Development Authority to clear encroachment from the land in question through the Central Enforcement Monitoring Committee in accordance with law within a stipulated period. The order does not decide title nor foreclose remedies available under law. The direction is to the statutory authority to act in accordance with law and does not disclose any patent error apparent on the face of the record.
31. The grounds urged in RVWPET No. 226 of 2025 relating to pendency of civil proceedings and competing claims over the land raise disputed questions requiring adjudication on merits. Such contentions do not fall within the limited parameters of review jurisdiction. Entertaining them would amount to re-appreciation of the matter, which is impermissible at this stage.
32. Mere pendency of a civil suit does not operate as a bar against statutory authorities proceeding in accordance with law in respect of Government



land, in the absence of any subsisting restraint order. No such order has been demonstrated before this Court.

33. In the absence of any error apparent or discovery of new evidence or other sufficient reason within the scope of review, no ground is made out to interfere with either of the orders under review.
34. Accordingly, RVWPET No.168 of 2024 and RVWPET No.226 of 2025 stand **dismissed**.
35. It is clarified that this Court has not expressed any opinion on the merits of the rival claims regarding title or possession over the land in question, and the parties are at liberty to pursue their remedies in accordance with law before the appropriate forum.
36. Interim order, if any, passed earlier in any of the Petitions stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 27th February, 2025/*