



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34569 of 2025

Jagyansini Badhai and others* *Petitioners

Mr. Subha Kumar Mishra, Advocate
-versus-

State of Odisha and others* *Opposite Parties

Mr. Sanjay Rath, Addl. Government Advocate

CORAM:

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

25.02.2026

Order No.

01. 1. Mr. Subha Kumar Mishra, learned Advocate submitted that the petitioners are in *khas* physical possession of the land in question and constructed dwelling house thereupon, details of which are described in *Yadast* (not final) issued on 05.05.1972 *vide* Annexure-4, basing on which the petitioners approached the authority concerned for correction of the Record-of-Rights. It is stated that Encroachment Case bearing No.313 of 2018 in connection with P.R. Case No.1306 of 2018 has been instituted against the petitioner Nos.2 to 6.
2. While dealing with petition under Section 15(b) of Odisha Survey and Settlement Act, 1958 (for short, “the Act”), the Additional Commissioner, Consolidation and Settlement, Sambalpur-II has rejected the said petition on the ground that he “lacks jurisdiction” to record all the Government land on the basis of possession. It is also submitted that though it is reflected in the impugned order that the Advocate for the petitioners was present on 10.01.2023, the Additional



Commissioner, Consolidation and Settlement, Sambalpur-II should have granted reasonable opportunity to the petitioners to establish their possession as well as the right over the scheduled property by producing evidence. The matter has not been considered on merit in its proper perspective. Merely because the subject land is recorded with status 'Rakhita', the Revisional Authority should not have rejected the revision without assigning reason. He could have proceeded to decide the case on merit as Section 15(b) confers on him the power to call for record to revise Record-of-Right, instead of rejecting the petition on the ground of "lack of jurisdiction".

3. Mr. Sanjay Rath, learned Addl. Government Advocate opposing the contention of the learned Advocate for the petitioners, submitted that there is unexplained delay in approaching this Court by way of Revision which itself is sufficient for dismissing the writ petition *in limine*. However, he did not dispute the conferment of revisional power on the authority concerned by virtue of Section 15(b) of the Act.
4. Considering the age of the mother of the petitioner who was one of the petitioners before the Additional Commissioner, Consolidation and Settlement, Sambalpur, the delay in approaching this Court cannot be treated to be inordinate and the objection raised by the learned Additional Government Advocate is, thus, overruled.



5. Having gone through the order dated 10.01.2023 *vide* Annexure-3, it is transpired that the Revisional Authority has rejected the Revision Petition with one line order indicating “lack of jurisdiction”. Non-assignment of reason invites indulgence of this Court by exercising writ jurisdiction. It is, thus, apposite to refer to *Kranti Associates (P) Ltd. Vrs. Masood Ahmed Khan*, (2010) 9 SCC 496, wherein the Hon’ble Supreme Court of India has summarised the legal position as follows:

“47. *Summarising the above discussion, this Court holds:*

- (a) *In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- (b) *A quasi-judicial Authority must record reasons in support of its conclusions.*
- (c) *Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- (d) *Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- (e) *Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*
- (f) *Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*



- (g) *Reasons facilitate the process of judicial review by superior courts.*
- (h) *The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.*
- (i) *Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- (j) *Insistence on reason is a requirement for both judicial accountability and transparency.*
- (k) *If a judge or a quasi-judicial Authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*
- (l) *Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.*
- (m) *It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor, (1987) 100 Harvard Law Review 731-37).*



- (n) *Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija Vrs. Spain, (1994) 19 EHRR 553 EHRR, at 562 para 29 and Anya Vrs. University of Oxford, 2001 EWCA Civ 405 (CA), wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, ‘adequate and intelligent reasons must be given for judicial decisions’.*
- (o) *In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of ‘due process’.*”
6. In *Abhiram Caretaking & Expert Services Vrs. Bharat Sanchar Nigam Limited, 2017 (II) ILR-CUT 1029* the importance of assigning reason in detail has been emphasized with the following observations:

“10. Franz Schubert said:

‘Reason is nothing but analysis of belief.’

In Black’s Law Dictionary, reason has been defined as a—

‘faculty of the mind by which it distinguishes truth from falsehood, good from evil, and which enables the possessor to deduce inferences from facts or from propositions.’

It means the faculty of rational thought rather than some abstract relationship between propositions and by this faculty, it is meant the capacity to make correct inferences from propositions, to size up facts for what they are and what



they imply, and to identify the best means to some end, and, in general, to distinguish what we should believe from what we merely do believe.

10.1. *In Union of India Vrs. Mohan Lal Capoor, AIR 1974 SC 87 it has been held that reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial and reveal a rational nexus between the facts considered and conclusions reached. The reasons assure an inbuilt support to the conclusion and decision reached. Recording of reasons is also an assurance that the authority concerned applied its mind to the facts on record. It is vital for the purpose of showing a person that he is receiving justice.*

Similar view has also been taken in Uma Charan Vrs. State of Madhya Pradesh, AIR 1981 SC 1915, Patitapaban Pala Vrs. Orissa Forest Development Corporation Ltd., 2017 (I) OLR 5; and Banambar Parida Vrs. Orissa Forest Development Corporation Limited, 2017 (I) OLR 625.

11. *In S.N. Mukherjee Vrs. Union of India, (1990) 4 SCC 594 the Apex Court held that keeping in view the expanding horizon of principles of natural justice, the requirement to record reasons can be regarded as one of the principles of natural justice which governs exercise of power by administrative authorities. Except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority is required to record reasons for its decision.*

12. *In Menaka Gandhi Vrs. Union of India, AIR 1978 SC 597 the Apex Court observed that the reasons, if disclosed, being open to judicial scrutiny for ascertaining their nexus with the order, the refusal to disclose the reasons*



would equally be open to the scrutiny of the court; or else, the wholesome power of a dispassionate judicial examination of executive orders could, with impunity, be set at naught by an obdurate determination to suppress the reasons.”

- 6.1. It is discernible from the impugned that no reason has been assigned by the Additional Commissioner even for acknowledging that there was “lack of jurisdiction” under Section 15(b) of the Odisha Survey and Settlement Act. This Court, thus, is persuaded that there has been violation of principles of natural justice.
7. In view of the above, it is expected that the Revisional Authority while considering the petition for Revision, he is duty bound to assign reason (s). Having perceived that there is absence of reason in order dated 10.01.2023, this Court is inclined to interfere with the said order.
8. Hence, the order dated 10.01.2023 passed by the Additional Commissioner, Consolidation and Settlement, Sambalpur-II in OSS Revision Case No.37/2020 is set aside and the matter is remitted to the Additional Commissioner, Consolidation and Settlement, Sambalpur-II for grant of reasonable opportunity to the petitioners, who claims to be in *khas* physical possession of the land in question since 1960. After affording reasonable opportunity of hearing to the petitioner, the said authority shall pass appropriate order (s), within a period of three months from the date of production of a copy of this order. It is needles to say that this Court has not expressed any opinion on the merits of the case.



9. With the aforesaid observation(s) and direction, the writ petition stands disposed of.

(M.S. Raman)
Judge

Bichi