

(2025) 06 OHC CK 0948

In the Orissa High Court

Case No : Writ Petition (C) No. 26833 Of 2024

Jhansi Rani Bosi And Others

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

Date of Decision : 30-06-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Orissa Land Reforms Act, 1960 — Section 22, 23

Citation : (2025) 06 OHC CK 0948

Hon'ble Judges : Ananda Chandra Behera, J

Bench : Single Bench

Advocate : S.K.Dalai, J.Sahoo

Final Decision : Disposed Of

Judgement

Ananda Chandra Behera, J

1. This writ petition under Articles 226 and 227 of the Constitution of the India, 1950 has been filed by the Petitioners against the Opposite Parties praying for quashing (setting aside) the order dated 27.08.2024 passed in Misc. Case No.23 of 2024 by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6).

2. The case of the Petitioners in this writ petition is that, the Petitioner No.1 Jhansi Rani Bosi was the owner of the case land. She (Petitioner No.1) sold the said case land to the Petitioner Nos.2 to 5 by executing and registering the sale deed No.10552400468 dated 16.02.2024 after receiving due consideration amount thereof from the Petitioner Nos.2 to 5 and delivered possession of the case land to them (Petitioner Nos.2 to 5) and since then, till yet, the vendees of the Petitioner No.1 i.e. Petitioner Nos.2 to 5 had/have been possessing the case land.

After, execution and registration of the sale deed No.10552400468 dated 16.02.2024 by the Petitioner No.1 in favour of the Petitioner Nos.2 to 5 in respect of the case land, mutation cases vide Mutation case Nos.277 of 2024 and

278 of 2024 were initiated before the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) for recording the case land in the name of the purchasers thereof i.e. Petitioner Nos.2 to 5 through mutation. After making due enquiry about the possession of the purchasers i.e. Petitioner Nos.2 to 5 on the case land by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) in mutation case Nos.277 of 2024 and 278 of 2024, both the mutation cases in respect of the case land were allowed in favour of the Petitioner Nos.2 to 5 and final orders in mutation case Nos.277 of 2024 and 278 of 2024 were passed for correction of the R.o.Rs of the case land from the name of the Petitioner No.1 to the names of the Petitioner Nos.2 to 5.

On the basis of such orders passed in mutation case Nos.277 of 2024 and 278 of 2024 in favour of the Petitioner Nos.2 to 5, separate R.o.Rs of the case land vide Khata Nos.170/719 and 170/718 were prepared in the name of the Petitioner Nos.2 to 5. But, subsequent to the preparation of the R.o.Rs of the case land in favour of the Petitioner No.2 to 5 on the basis of the final orders passed in mutation case Nos.277 of 2024 and 278 of 2024, the same Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) initiated a Misc. Case No.23 of 2024 suo motu against the Petitioners of this writ petition and disposed of that Misc. Case No.23 of 2024 on dated 27.08.2024 finally and recalled the orders passed in mutation case Nos.277 of 2024 and 278 of 2024 in favour of the Petitioner Nos.2 to 5 on the ground that,

"the petitioner No.1 has executed the sale deed vide R.S.D. No.10552400468 dated 16.02.2024 in respect of the case land in favour of the Petitioner Nos.2 to 5 without obtaining required permission under Section 22 of the OLR Act, 1960 suppressing her Caste i.e. Madiga (which is a Schedule Caste) and directed to the record keeper to revert the case land from the names of the Petitioner Nos.2 to 5 to the name of the Petitioner No.1".

3. On being dissatisfied with the said order dated 27.08.2024 passed in Misc. Case No.23 of 2024 by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6), the Petitioners (vendor and vendees of the sale deed vide R.S.D. No.10552400468 dated 16.02.2024 in respect of the case land) challenged the same by filing this writ petition jointly praying for quashing (setting aside) the order dated 27.08.2024 passed in Misc. Case No.23 of 2024 on the ground that, Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) had no power or jurisdiction under law to initiate the Misc. Case No.23 of 2024 Suo Motu for recalling the orders for mutation of the case land in favour of the Petitioner Nos.2 to 5 passed in mutation case Nos.277 of 2024 and 278 of 2024 and the O.P. No.6 has exceeded his jurisdiction in passing the impugned order, when, the vendor of the sale deed in respect of the case land i.e. the Petitioner No.1 had no objection to the mutation already allowed in respect of the case land in favour of the Petitioner Nos.2 to 5 in mutation case Nos.277 of 2024 and 278 of 2024.

4. I have already heard from the learned counsel for the petitioners and the learned Additional Standing Counsel for the State on behalf of the Opposite

Parties.

5. According to the rival submissions of the learned counsels of both the Parties on the basis of the impugned order dated 27.08.2024 passed in Misc. Case No.23 of 2024 by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6), the crux of this writ petition is that,

“when, undisputedly, the Petitioner Nos.2 to 5 are in possession over the case land and when, there is no objection to the possession of the Petitioner Nos.2 to 5 on the case land by its previous owner i.e. Petitioner No.1 and when, there is no objection to such mutation of the case land in favour of the vendees i.e. Petitioner Nos.2 to 5 by the vendor i.e. Petitioner No.1, then, under such a situation, whether the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) had the power/authority/jurisdiction under law to initiate the Misc. case vide Misc. Case No.23 of 2024 suo motu for recalling the order for mutation of the case land already passed by him (O.P. No.6) in favour of the Petitioner Nos.2 to 5 in Mutation case Nos.277 of 2024 and 278 of 2024 stating about the illegality/invalidity of the sale deed No.10552400468 dated 16.02.2024 executed by the Petitioner No.1 in favour of the Petitioner Nos.2 to 5 on the ground of contravention of Section 22 of the Odisha Land Reforms Act, 1960, when, the Petitioner No.1 (vendor of the sale deed i.e. the seller of the case land) is not wanting for cancellation of recording of the case land from the names of the Petitioner Nos.2 to 5 to her name?”

6. It is the undisputed case of the Parties that, the Petitioner No.1 was the owner of the case land and she is the vendor of the sale deed vide R.S.D. No.10552400468 dated 16.02.2024. The Petitioner Nos.2 to 5 are the vendees of that sale deed. Orders for mutation of the case land were passed in favour of the Petitioner Nos.2 to 5 in mutation case Nos.277 of 2024 and 278 of 2024. The vendor/seller of the case land i.e. Petitioner No.1 has no objection to the recording of the case land in the name of her vendees i.e. Petitioner Nos.2 to 5, rather she (Petitioner No.1) has given her consent for such recording of the case land in the names of the Petitioner Nos.2 to 5 on the basis of undisputed possession of the Petitioner Nos.2 to 5 on the same.

7. “It is the settled propositions of law that, mutation proceedings are summary in nature, which do not create any right in favour of any person. Mutation proceedings are only for the purpose of fixing responsibility on the person in actual possession of the land to pay land revenue and other dues to the Government and the mutation case are mostly decided on the basis of the actual possession over the property in question, making the decision subject to declaration of rights of the parties by the competent Courts of law.

Therefore, the mutation entries in the revenue record is only for the fiscal purpose and the said mutation entries cannot be treated as document of title. Mutation is done simply to keep the revenue record up-to-date and for the purpose of receiving land revenue. Mere mutation of record would not divest the

actual owner or owners of a land of their right, title and interest in the said land.”

8. On this aspect, the propositions of law has already been clarified by the Hon’ble Courts and the Apex Courts in the ratio of the following decisions:-

(i) In a case between Ahmad Bux and others Vrs. U.P. Zilla Adhkari/Asst. Collector (Ist), Sitapur and others reported in 2021 (3) Civ.C.C. 228 (Allahabad) that,

The mutual proceedings are summary in nature, which do not create any right in favour of any person. Mutation proceedings are only for the purpose of fixing responsibility of the person in actual possession of the land to pay land revenue and other dues to the Government and mostly decided on the basis of actual possession over the property in question, making the decision subject to declaration of rights of the parties by the competent court of law.

(ii) In a case between Baniz Uddin Vrs. Golapi Nessa reported in 2021(4) Civ.C.C. 244 (Gauhati) that,

Mutation Entry in the record of rights do not vest any ownership over the said land and is only indicative about possession over the suit land.

(iii) In a case between Iqbal Vrs. Mohd. Shamim reported in 2022(4) Civ.C.C. 97 (Uttarakhand) that,

Mutation of name in respect of agricultural land does not create or extinguish title nor has it any presumptive value on title— It only enables person in whose favour mutation is ordered to pay land revenue.

(iv) In a case between Shri Krashan Vrs. Additional Commissioner (Judicial) Div. Lucknow and others reported in 2021(4) Civ.C.C. 116 (Allahabad) that,

Mutation orders passed only to determine liability to pay revenue to Government —Same to not create any right, title and interest on the property in question.

(v) In a case between Mohammad Iqbal Vrs. Govt. of India and others reported in 1997 (Supp.) Civ.C.C. 445 (H.P.) that,

Mutation proceedings are not judicial proceedings and they do not decide any title nor it is evidence of exclusion from property.

(vi) In a case between Jitendra Singh Vrs. State of Madhya Pradesh and others reported in 2021 SCC online (S.C.) 802 in Para No.6 that,

The mutation entry in the revenue record is only for the fiscal purpose.

(vii) In a case between Chandrakala and others Vrs. Saurabh and others reported in 2024 (2) Civ.C.C. 756 (Bombay) that,

Mutation entries are taken for fiscal purposes and cannot be treated as document of title.

(viii) In a case between Prem Chand Vrs. Ameshwar Singh reported in 2017 (2) Civ.C.C. 462 (H.P.) that,

Mutation is done simply to keep the revenue record up-to date and for the purpose of receipt of land revenue.

9. Here, in this matter at hand, when the vendor of the sale deed vide R.S.D. No.10552400468 dated 16.02.2024 i.e. Petitioner No.1 is admitting the possession of her vendees i.e. the Petitioner Nos.2 to 5 over the case land and when, there is no objection by the vendor (Petitioner No.1) to the recordings of the case land in the names of the Petitioner Nos.2 to 5 through mutation and when, it is the settled propositions of law as per the ratio of the aforesaid decisions that, mutation proceedings are only for the purpose of fixing responsibility on the person in actual possession of the land to pay land revenue and other dues to the Government and mostly decided on the basis of actual possession over the properties in question and when, undisputedly, the Petitioner Nos.2 to 5 are in possession over the case land, then at this juncture, the Mutation Officer-cum-Tahasildar, Kashinagar (O.P.No.6) had no power/authority/jurisdiction under law to initiate Misc. Case No.23 of 2024 suo motu for recalling the orders for mutation already passed by him (O.P. No.6) in mutation Case Nos.277 of 2024 and 278 of 2024 in favour of the Petitioner Nos.2 to 5 stating about the invalidity of the sale deed No.10552400468 dated 16.02.2024, when, the vendor of the said sale deed i.e. Petitioner No.1 has not approached the O.P. No.6 for recalling/cancelling the recordings of the case land in the names of the Petitioner Nos.2 to 5 through mutation as per orders passed in Mutation Case No.277 of 2024 and 278 of 2024.

10. The conclusion drawn above finds support from the ratio of the following decision:-

In a case between I.G.R.-cum-Excise Commissioner, Orissa and others Vrs. Prafulla Kumar Das and others reported 2006 (II) CLR 710, 2006(II) OLR 821 and 103 (2007) CLT 485 (D.B.) that,

Suo Motu mutation proceeding initiated by the Tahasildar on the direction of Collector to carve out a portion of the Government land in possession of the Sub-Registrar to facilitate an individual applicant, who moved the Collector for a road —Held—Initiation of the suo motu mutation proceeding by the Tahasildar is without the sanction of law and has to be quashed.

11. In view of the principles of law enunciated in the ratio of the above decision, Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) had no authority under law to initiate Suo Motu Misc. Case No.23 of 2024 for recalling the orders for mutation passed in Mutation Case Nos.277 of 2024 and 278 of 2024 earlier by him (O.P. No.6), when the previous recorded owner of the case land as well as the vendor of the sale deed i.e. Petitioner No.1 had/has not challenged to such recordings of the case land in favour of Petitioner Nos.2 to 5 as per orders passed in mutation case Nos.277 of 2024 and 278 of 2024.

12. As per law, if there is any sale of property by any S.C. or S.T. person through any sale deed in contravention of Section 22 of the OLR Act like the sale deed in question vide R.S.D. No.10552400468 dated 16.02.2024, in this writ petition at hand, such sale deed can be declared as invalid by the Revenue Officer i.e. statutory authority under the OLR Act through initiation and adjudication of a proceeding under Section 23 of the said Act, but, the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) while considering an application for mutation had no jurisdiction to go into the question of validity of the sale deed. Because, such question regarding the validity of any sale deed executed in contravention of Section 22 of the Odisha Land Reforms Act can only be decided by the competent statutory authority under the OLR Act.

13. On this aspect, the propositions of law has already been clarified by the Hon'ble Courts in the ratio of the following decision:-

In a case between Iqbal Vrs. Mohd. Shamim reported in 2022 (4) Civ.C.C. 97 (Uttarkhand) that,

On the basis of sale deed while considering mutation application, the authorities dealing with mutation application cannot go into the validity of the sale deed and such question regarding the validity of the sale deed can be decided by a competent Court of law.

14. In view of the principles of law enunciated in the ratio of the above decision, much after the final orders passed in Mutation Case Nos.277 of 2024 and 278 of 2024, the same Mutation Officer-cum-Tahasildar (O.P. No.6) should not have recalled such orders for mutation stating about the invalidity of the sale deed executed by the Petitioner No.1 in favour of the Petitioner Nos.2 to 5 in respect of the case land. For which, the impugned order passed in Misc. Case No.23 of 2024 by the O.P. No.6 cannot be sustainable under law.

15. When, there is no finding in the impugned order passed in Misc. Case No.23 of 2024 by the O.P. No.6 that, the Petitioner Nos.2 to 5 are not in possession over the case land and when, the R.o.Rs of the case land in favour of the Petitioner Nos.2 to 5 were prepared according to the orders passed in Mutation case Nos.277 of 2024 and 278 of 2024 on the basis of the possession of the Petitioner Nos.2 to 5 on the case land and when, the vendor of the sale deed No.10552400468 dated 16.02.2024 i.e. Petitioner No.1 has no objection to such recordings of the case land in the names of the Petitioner Nos.2 to 5 through mutation and when, the O.P. No.6 had no jurisdiction to initiate Misc. Case No.23 of 2024 suo motu and when, the O.P. No.6 had/has no power under law to express any opinion regarding the validity of the sale deed executed between the Parties at the time of consideration of an application for mutation, then at this juncture, it is held that, the impugned order passed by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) in suo motu Misc. Case No.23 of 2024 recalling the orders for mutation passed in Mutation case Nos. 277 of 2024 and 278 of 2024 cannot be sustainable under law. For which, the impugned order dated

27.08.2024 passed in Misc. Case No.23 of 2024 by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) in Misc. Case No.23 of 2024 is liable to be quashed (set aside).

16. As such, there is merit in the writ petition filed by the Petitioners. The same must succeed.

17. In result, the writ petition filed by the petitioners is allowed on contest.

18. The impugned order dated 27.08.2024 passed in suo motu Misc. Case No.23 of 2024 by the Mutation Officer-cum-Tahasildar, Kashinagar (O.P. No.6) is quashed.

19. Accordingly, the writ petition is disposed of finally.

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