
(2026) 07 OHC CK 0216
In the Orissa High Court, Cuttack Bench
Case No : W.P.(C) No.14693 OF 2014

Nandinee Bose & Anr.

APPELLANT

Vs

State Of Odisha & Ors.

RESPONDENT

Date of Decision : 07-07-2026

Acts Referred:

Constitution of India — Articles 226 and 227
Odisha Survey and Settlement Act, 1958 — Section 12, 12-A, 12-B, 15(b), 158
Orissa Government Land Settlement Act, 1962 — Section 7- A (3)
Odisha Land Reforms Act — Section 8-A
Odisha Survey and Settlement Rules, 1962 — Rule 34

Citation : (2026) 07 OHC CK 0216

Hon'ble Judges : K.R. Mohapatra, J;S.K. Mishra, J

Bench : Division Bench

Advocate : Mr. Brahmananda Tripathy, Mr. Swayambhu Mishra

Final Decision : Allowed

Judgement

By the Bench;

1. This matter is taken up through hybrid mode.
2. Petitioners in this writ petition seek to assail the order dated 29.08.2013 (Annexure-14) passed by the Assistant Settlement Officer, Bhubaneswar in Objection Case No. 3865 of 2013, whereby the objection filed by the Petitioners under Section 12 of the Odisha Survey and Settlement Act, 1958 (for brevity 'the Settlement Act') was rejected and the land in question was directed to be recorded in the name of the Government Khata.
3. Mr. Tripathy, learned Counsel for the Petitioners submits that Plot No.502 of Khewat No. 01 (KA) in Khata No.359 of Mauza- Ogalapada in the district of Khordha stood recorded in the name of the Government. One Sri Narayan Naik, Son of Damodar Naik of village Ogalapada made an application under the Orissa Government Land Settlement Act, 1962 (for brevity, 'the Government Land Settlement Act') for settlement of a piece of Government land. Accordingly, WLL

Case No. 2723 of 1973 was initiated by the Tahasildar, Bhubaneswar and Plot No. 502/ 1164 of Khata No.255/24 to an extent of an area of Ac.1.000 decimals (for brevity, 'the case land') was settled in favour of the said Sri Narayan Naik (lessee) vide order dated 15.07.1974.

3.1. The Record of Rights in respect of the case land was also published in the name of said Sri Narayan Naik. While enjoying the case land, said Sri Narayan Naik alienated the property to one Sri Rabindra Kumar Baliarsingh vide RSD No.2100 dated 19.11.1982 and delivered possession of the case land to him.

3.2. When the matter stood thus *suo motu* Revision Case No.347 of 1986 under Section 7- A (3) of the Government Land Settlement Act was initiated by the Additional District Magistrate, Bhubaneswar to verify the regularity in settling the land in favour of the said Sri Narayan Naik. The said revision was disposed of by the Additional District Magistrate vide his order dated 25.04.1987 and the matter was remitted to the Tahasildar, Bhubaneswar for fresh enquiry and disposal in accordance with law.

3.3. Accordingly, Tahasildar initiated Remand Case No.184 of 1989 and proceeded to dispose of the same after conducting a fresh enquiry, as per the direction of the Additional District Magistrate. Upon a detailed enquiry, the Tahasildar, Bhubaneswar vide order dated 30.07.1990, upheld the lease granted in favour of said Sri Narayan Naik and held it to be valid. The said order was also communicated to the Additional District Magistrate vide Letter No.972 dated 25.01.1990. The order passed by the Tahasildar, Bhubaneswar in Remand Case No. 184 of 1989 was never challenged in any competent Court of law and attained its finality.

4. Subsequently, Sri Rabindra Kumar Baliarsingh, who was in possession of the case land exercising his right, title and interest therein for his legal necessity alienated an area of Ac.0.200 decimals in favour of one Ms. Sasmita Panda vide Registered Sale Deed No.1665 dated 31.10.1990 and delivered possession thereof to her. The rest portion of the case land was also alienated by the said Sri Rabindra Kumar Baliarsingh in favour of different persons. Said Smt. Sasmita Panda got the land mutated in her name. Subsequently, the said Smt. Sasmita Panda, vide Registered Sale Deed No.570 dated 01.03.2006, sold the said land to the Petitioners and delivered possession thereof to them. Since then, the Petitioners are in peaceful possession over the land in question. On purchase, the Petitioners converted the land to *Gharabari* kisam under Section 8-A of the Odisha Land Reforms Act in OLR Case No.577 of 2006.

5. At this juncture, settlement proceedings commenced in the area and preliminary Record of Rights under Section 12 of the Settlement Act was published. Although the preliminary Record of Rights was published in the name of the Petitioners but the area was reduced. Hence, the Petitioners filed Objection Case No.3865/647 of 2013 under Section 12 of the Settlement Act to enhance the area of their land and to correct the map accordingly. The Assistant

Settlement Officer, Bhubaneswar without considering the objection filed by the Petitioners rejected the same and directed the land to be recorded in the Government Khata.

6. While adjudicating the matter, the Assistant Settlement Officer sat over the lease granted in favour of the Sri Narayan Naik and held it to be illegal on the plea that the said Sri Narayan Naik was not utilizing the land for the purpose for which it was leased out. Since the said order was passed without jurisdiction, the Petitioners preferred the present writ petition assailing the same.

7. This writ petition was heard and disposed of by this Court along with a batch of cases by a common order. Assailing the said common order, the State Government preferred different SLPs before Hon'ble Supreme Court.

8. Hon'ble Supreme Court vide common order dated 17.12.2024, disposed of all the said SLPs with the following observations:-

"Delay condoned.

Having heard learned counsel for the parties, we are of the considered view that the Judgment needs to be quashed and set aside for the simple reason that instead of deciding each case individually, on its given fact, the High Court proceeded to club and decide all the matters by presuming the facts to be common/identical and framing a common question of law.

As such on this short ground alone, the judgment requires interference, we are of the considered view that each case had to be considered on its own merits.

Whether the power exercised by the ASO under the provisions of Section 12 of the Orissa Survey and Settlement Act, 1958 were exercised prior to the finalisation of the Record of Rights or at a subsequent stage was not considered by the High Court. Also as to whether the aggrieved parties had exhausted their remedies as provided under Section 12A and/or Section 158 of the said Act is also not considered by the High Court. The High Court proceeded on the assumption that all the petitioners before the Court had leases in their favour, in relation to which no Record of Rights was required to be prepared in terms of Section 12 of the said Act.

As such, on these grounds alone, without commenting on the merits of the issue and the contentions raised before us, we remand the matter to the High Court for consideration afresh.

We hope and expect that each case would be considered and decided separately, though expeditiously. All rights and contentions inter se the parties are left open to be agitated before the High Court.

The parties are directed to appear before the High Court on 15.1.2025. The parties undertake to fully co-operate in the proceedings before the High Court.

The special leave petitions are disposed of as above. Pending application(s), if any, stands disposed of."

9. Accordingly, the matter is taken up before this Court for adjudication.

10. Mr. Tripathy, learned counsel for the Petitioners further submits that since the order under Annexure-14 was without jurisdiction, the Petitioners without availing the remedy available to the Petitioners under Sections 12-A and 15(b) of

the Settlement Act, approached this Court and this Court vide order dated 31.10.2014 while issuing notice in the matter, granted an interim order of *status quo* to be maintained till 07.01.2015 in Misc. Case No.13111 of 2014. The said order is continuing till today.

10.1. Mr. Tripathy relied upon the ratio decided in the case of *Narottam Rath*, which was disposed of afresh by this Court after remand by the Hon'ble Supreme Court. It is submitted that, when the impugned order is without jurisdiction, this Court is competent to invoke the extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India and entertain the writ petition. He, therefore, submits that the impugned order under Annexure-14 is liable to be set aside and the Tahasildar, Jatni be directed to record, the land purchased by the Petitioners in their names.

10.2. Mr. Mishra, learned Additional Standing Counsel submits that the land in question situates in Mouza Ogalapada, in respect of which final Record of Rights has already been published on 30th November, 2013 under Section 12-B of the Settlement Act. Admittedly, the Petitioners have neither exhausted the remedy of Appeal under Section 12-A before publication of the final Record of Right nor Section 15(b) of the Settlement Act after publication of the final Record of Right. Hence, the present writ petition is not maintainable and is liable to be dismissed.

10.3. He, further, submits that the order passed by the Assistant Settlement Officer may be erroneous, but it is not without jurisdiction. The Assistant Settlement Officer exercised his jurisdiction under Section 12 of the Settlement Act to adjudicate the objection case. Since, the Tahasildar, Jatni had jurisdiction to entertain such objection, the order passed under Annexure-14 was open to be challenged by the Petitioners under Section 12-A of the Settlement Act before publication of the final Record of Rights and under Section 15(b) of the Settlement Act after publication of the final Record of Rights. That being not done, the impugned order has become final and binding on the Petitioners. Accordingly, he prays for dismissal of the writ petition.

10.4. Taking into consideration the discussions made above, the Tahsildar, Jatni has no other option than to correct the RoR in the name of the Petitioners in respect of the land he has purchased, under Rule 34 of the Odisha Survey and Settlement Rules, 1962. Even if the final RoR in respect of the case land has already been published in the name of the Government, but the Tahasildar, Jatni is competent to correct the same in the name of the Petitioners pursuant to the direction of a competent Court of law. Consequently, the Tahasildar, Jatni is directed to record the land purchased by the Petitioners in his (Petitioners') name within a period of eight weeks from the date of production of certified copy of this judgment and supply the corrected RoR to the Petitioners forthwith.

10.5. The writ petition is allowed to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs.

Urgent certified copy of this judgment be granted on proper application.