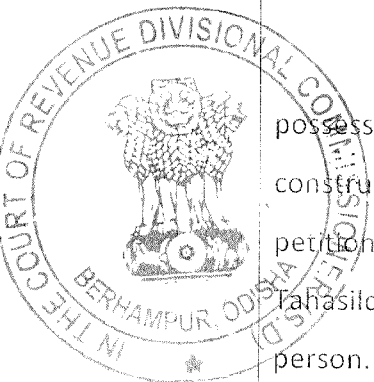


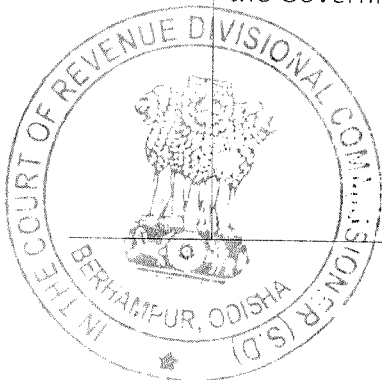
SL. No & Date of order	Order and signature of Officer	Note of action taken on order
1	2	3
<p>24.11.2018</p>	<p style="text-align: center;">IN THE COURT OF REVENUE DIVISIONAL COMMISSIONER, SOUTHERN DIVISION, ODISHA, BERHAMPUR</p> <p style="text-align: center;">OPLE Case No- 38/15</p> <p>Banchha Naik S/o- Late Bhula Naik Children Park Road, Word No. 14 of Bhanjanagar NAC Po/Ps- Bhanjanagar Dist- GanjamPetitioner</p> <p style="text-align: center;">-Vrs-</p> <p>State of OdishaRespondent</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is a petition filed by the petitioner Sri Banchha Naik (SC), S/o- late Bhula Naik, Children Park Road, Word No.14 of Bhanjanagar NAC, PO/PS- Bhanjanagar, Dist- Ganjam through his advocate U/S-12 (3) of OPLE Act, 1972 to issue direction to Tahasildar, Bhanjanagar to record area of Ac. 0.090, Plot No. 194, Khata No. 40 of Rasalkonda Mouza of Bhanjanagar Tahasil in his favour.</p> <p>It is contended by the petitioner that the suit land is under his possession for more than 40 years and he is residing with his family by constructing a house on the suit plot. It is further contended by the petitioner that eviction order has been passed against him wrongly by the Tahasildar, Bhanjanagar in E.C. No.172/14-15 though he is a homesteadless person. He also alleged that though annual income of his family was assessed as Rs.27,000/- in the year, 2014 the same was reassessed as Rs.50,000/- for the year,2015-16 which crossed the prescribed limit of Rs.40,000/- thus making the family ineligible for getting benefit of a homesteadless person. Hence prayed for settlement of the suit plot in his favour.</p>	



The petitioner filed this case in this court and thereafter filed WP (C) No. 17549/16 before the Hon'ble High Court, Odisha. The Hon'ble High court in their judgement dtd. 10.11.2016 ordered for finalisation of the case within two weeks and ordered for not disturbing possession of the Petitioner over the suit land for at least a period of three weeks from the date of receipt of the order. Pursuant to the above order of the Hon'ble High Court in this case, the case was heard on 29.11.16 and order was passed by this court with direction to the concerned authorities not to interfere with the possession of the Petitioner if any till further hearing in this case.

Perused the field report of Tahasildar, Bhanjanagar submitted vide his Letter No.6092 dtd.12.11.18. In his report, the Tahasildar, Bhanjanagar has mentioned that all other encroachers in that area except the Petitioner have vacated their respective encroached plots after alienation of the entire project area in favour of Housing and Urban Development Department for water treatment Plant.

This case was heard on 22.11.2018. During deliberation, the advocate for the petitioner stood on the contention of the petition and submitted that the petitioner will become homesteadless if he is evicted from the suit land. Tahasildar, Bhanjanagar present in the Court submitted that the suit plot is a part of Khata No. 40 of Mouza Rasalkonda of Parbat Kissam which has been alienated in favour of H & U D Department for Water Treatment Plant and hence the Tahasildar, Bhanjanagar has no power to settle the suit land in favour of the petitioner. Taking the above fact into consideration, I am of the opinion that the prayer of the Petitioner is not admissible as per provision of OPLE Act, 1972 and hence the Petition is rejected with instruction to the Tahasildar, Bhanjanagar to explore the possibility of granting a patch of Homestead land at an alternative site in favour of the Petitioner within the purview of law and as per latest norms of the Government.




Revenue Divisional Commissioner,
Southern Division, Berhampur