

**IN THE COURT OF REVENUE DIVISIONAL COMMISSIONER,
SOUTHERN DIVISION, ODISHA, BERHAMPUR**

OSSARC No.86/2018
(Order by Sri T. Ao, I.A.S,

Revenue Divisional Commissioner, (SD), Berhampur)

Decided on - 31 - 05 - 2022

Sanuja Nayak,
S/o: Late Radhanath Nayak,
At: Chunapalli,
Po/PS- Raikia,
Dist: Kandhamal.

.....Petitioners

-Versus-

1. Collector, Kandhamal
2. Asst.Settlement Officer, Phulbani
Dist: Kandhamal.
3. The Tahasildar, Raikia, Dist: kandhamal.

.. Opposite Party

For the petitioner

..... Sri A.K Mahapatro , Advocate

For the OPs

.....None

Prayer

This revision Petition is filed U/S 15(b) of OS&S Act, 1958 to correct the ROR and record area of HC.0.0180R of Hal plot No. 2583 and Hc.0.0940R of Hal plot No.2525 of Hal Khata No. 623 of Raikia mouza of Raikia Tahasil in the name of Petitioner. Petitioner prays "to admit this revision petition and to call for the lower court records and after hearing allow this Revision Petition by setting-aside the impugned R.O.R in respect of the suit land and directing the Tahasildar, Raikia to record the suit lands in favour of the petitioner". The petitioner has filed Limitation petition U/S 5 Limitation Act, wherein the petitioner being a rustic villager could not be able to know the different stages of settlement operation has been cited as the reason for delayed filing of this petition.

Contention: -

The suit land was unsurveyed prior to last settlement. Petitioner is in possession of suit land since time of his late father. But during the last settlement finalised in the year,1983, the suit lands have been recorded as Govt.land. Hence the petition to record the suit lands in favour of the petitioner.

Land schedule

Mouza	Sabik Khata No.	Sabik plot No.	Hal Khata No.	Hal Plot No.	Area	Kissam
Raikia	Unsurveyed	Unsurveyed	623	2583 2525	HC.0.0180R HC.0.0940R	Patita Patita

Documents relied upon: -

- Copy of ROR No. 623 published on 12.06.1983.
- PWR submitted by Asst. Settlement officer, Phulbani vide Letter No. 207 Dtd. 27.01.2020.
- Field verification report submitted by Tahasildar, Raikia vide Letter No. 2240 Dtd. 06.12.2021.

Date wise briefing

- On 11.07.2019, Advocate for the petitioner was present. Perused the record and the case is admitted. Call for the PWR and field verification report from ASO, Phulbani and Tahasildar, Raikia respectively.
- On 25.10.2021, Advocate for the petitioner and Tahasildar Raikia were present through virtual mode. The field verification report has not been received from Tahasil Office. The Tahasildar Raikia prayed for short time to submit the field verification report. The Petitioner stated they are staying over the suit land since last 40 years. The Tahasildar, Raikia is directed to submit field enquiry report within a week. The petitioner is directed to submit supporting document in support his claim.



- On 07.12.2021 Advocate Sri K.C.Sahu appeared for the petitioner for the 1st time. He said that as the original Advocate was Arun Kumar Mahapatra and he is appearing for the 1st time in this court, he may be allowed time to be prepared for the case. DA, Raikia Tahasil is present on line and said that petitioner is in possession of the suit land and ENC No.352/2007 was initiated against the petitioner.

ORDER

This case was heard for the final time on 10.03.2022. The Advocate for the petitioner was present in the court & stood on the contention of revision petition during hearing. The field verification report and PWR were received from Tahasildar, Raikia and ASO, Phulbani respectively.

Perused the PWR submitted by ASO, Phulbani vide Letter No.207 Dtd.27.01.2020 which reveals that:

- The suit land was unsurveyed prior to Hal settlement.
- In Khanapuri stage, yaddast No. 2508 was instituted for correct recording of Hal plot No. 2583. Amin has reported the Khage Nayak S/o Lesa Nayak of village Bidyapada, Chandapalli has possessed the suit plots since last 15 years. ASO has passed order to record the suit plots in Government Anabadi with illegal note of possession against the name of Khage Nayak S/o Lesa Nayak of village Bidyapada, Chandapalli. The Hal plot No.2525 Hc.0.094R is not available in khata No.623.
- In Bhujarat stage, as per Amin report No.1, ASO has passed order to keep intact Khanapuri record.
- In Rent stage, one Radhanath Nayak S/o Daya Nayak of village Raikia has filed an objection bearing case no.1105/80 to record the plot No.2583 in his favour. ASO has partly allowed his claim and passed order to keep intact Khanapuri record and delete the name of Khage Nayak S/o Lesa Nayak of village Bidyapada, Chandapalli from remark column and insert the name of Radhanath Nayak S/o Daya Nayak with Kisam Gharabari-III.
- In appeal stage the petitioner has not filed any case before the appellate authority for recording of suit plot in his favour.

Also perused the field verification reports submitted by Tahasildar, Raikia vide Letter No.2240 Dtd.06.12.2021 which reveals that:

- Petitioner is in possession over area of Hc.0.018R of plot No.2583 of Khata No.623 of Raikia mouza making a house which is recorded as Govt.land. Area of Hc.0.018R of Plot No.2525 of khata No.619/151 of of Katapalli mouza is recorded in the name of Debaraj nayak S/o Baju Nayak in Gharabari kissam.

In his subsequent report Tahasildar, Raikia has mentioned about Rural encroachment Case No.352/2007 which shows that:

The Encroachment case No.352/2007 was instituted by Tahasildar, G.Udayagiri on 13.07.2007 against one Alias Nayak, S/o:Bama Nayak for area of Hc.0.009R of Plot No.2142 of Hal Khata No.623.The EC case was finalised on 30.08.2007 with settlement of the said land in favour of said Alias Nayak.

Finding:

- The PWR shows that the suit plot No.2583 was unsurveyed prior to settlement and plot No.2525 Hc.0.094R is not available in khata No.623. Hal plot No.2583 with area Hc.0.018R of Raikia mouza stood recorded in Govt.Khata.
- The field verification report of Tahasildar, Raikia shows that the petitioner is in possession over Hal plot No.2583 khata No.623 with area Hc.0.018R and kissam- Patita of mouza Raikia which is recorded as Govt.land. Plot No.2525 Khata No.619/151 with area Hc.0.018R and kissam- Gharabari of mouza Katapalli is recorded in favour of Debaraj Nayak S/o Baju Nayak.
- The petitioner has not mentioned anything in his plaint about institution of any Encroachment case related to the suit land.But subsequently during course of hearing on 7.5.2022,the Advocate for the Petitioner stated in the court that Encroachment case No.352/2007 was initiated against the Petitioner for the suit land. But the report of Tahasildar, Raikia clearly indicate that the Encroachment case No.352/2007 was


instituted in the name of one Alias Nayak, S/o:Bama Nayak for area of Hc.0.009R of Plot No.2142 of Hal Khata No.623 and the said encroachment is neither related to the suit land nor instituted against the Petitioner.

- In spite of repeated instruction from this court,the Petitioner has not submitted any material/paper document to establish his claim over the suit plots.

Taking the above facts into consideration, this court arrives at the conclusion that the Petitioner is staking claim over the suit Plot No.2525 and 2583 of Raikia Mouza basing on his long-term possession, out of which Plot No.2583 is recorded as Govt.land and Plot No.2525 is a private land. The Petitioner has not submitted any supporting document to establish his possession as such over the suit plots. Again though the Advocate for Petitioner claimed in the court that Encroachment case No.352/2007 was instituted against the Petitioner for the suit land,but the claim was found to be incorrect as per report of Tahasildar,Raikia.

In view of the above, no scope is left with this court to allow the prayer of the Petitioner in this case under the provision of OS&S Act,1958 and hence the prayer of the Petitioner in this case is disallowed.

This revision petition is disposed of accordingly.


Revenue Divisional Commissioner
Southern Division, Berhampur