IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.35756 of 2025
(An application under Articles 226 and 227 of the Constitution of India, 1950)

Gayatri Nanda .... ***Petitioner***

-versus-

State of Odisha and Others .... ***Opposite Parties***

Appeared in this case by Hybrid Arrangement

(Virtual/Physical Mode):

For Petitioner **-** Mr. D. Mohanty, Advocate.

For Opposite Parties - Mr. G. Mohanty, Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE A.C.BEHERA

Date of Hearing :16.12.2025 :: Date of Judgment :23.12.2025

A.C. Behera, J. This writ petition under Articles 226 & 227 of the Constitution of India, 1950 has been filed by the petitioner praying for quashing the impugned order passed in Mutation Misc. Case No.5280 of 2025 by the Addl. Tahasildar, Bhubaneswar (O.P. No.5) and to direct the Addl. Tahasildar, Bhubaneswar (O.P. No.5) to keep the R.o.R. of the case land vide Khata No.703/1056 Plot No.255/2334 in Mouza Patrapada under Bhubaneswar Tahasil in the district of Khordha, as it was prior to the impugned order passed in Mutation Misc. Case No.5280 of 2025.

2. The case of the petitioner is that, the case land i.e. Plot No.255/2334 Ac0.040 decimals under Khata No.703/1056 was under Sthitiban status in the name of the petitioner. But, on the basis of the Notification issued by the Government in Revenue and Disaster Management Department vide LetterNo.RDM-CHS-PGOT-0303-2020-23868/R&DM,dated 02.07.2025, the O.P. No.5 initiated a Mutation Misc. Case No.5280 of 2025 and as per order passed in Mutation Misc. Case No.5280 of 2025, the O.P. No.5 (Addl. Tahasildar, Bhubaneswar) changed the Sthitiban Satwa status of the petitioner from Khata No.703/1056 Plot No.255/2334 to Pattadar status and prepared new R.o.R. vide Annexure-1 correcting the stithiban status of the petitioner from the same to Pattadar.

For which, the petitioner challenged the same by filing this writ petition praying for quashing the impugned order passed in Mutation Misc. Case No.5280 of 2025 as well as to the corrected R.o.R. vide Annexure-1 and to keep the record and status of the case land under Khata No.703/1056 as it was under sthitiban status in the name of the petitioner prior to the impugned order passed in Mutation Misc. Case No.5280 of 2025.

3. I have already heard from the learned counsel for the petitioner and learned Standing Counsel for the State.

4. It is the undisputed case of the parties that, prior to the impugned order passed in Mutation Misc. Case No.5280 of 2025 by the O.P. No.5 (Addl. Tahasildar, Bhubaneswar), the status in the R.o.R. of the case land vide Khata No.703/1056 in the name of the petitioner was under sthitiban status, to which, the Addl. Tahasildar, Bhubaneswar (O.P. No.5) has changed from sthitiban status to pattadar status on the basis of the Notification issued by the Government in Revenue and Disaster Management Department vide LetterNo.RDM-CHS-PGOT-0303-2020-23868/R&DM,dated 02.07.2025.

5. The law concerning the effect of resolution and notification of the Government has already been clarified in the ratio of the following decisions:-

> (i) In a case between ***Ex-Capt. K.C. Arora and another Vrs. State of Haryana and others*** passed in ***Writ Petition Nos.6436-37 of 1980 and Civil Appeal Nos.3095-96 of 1980*** decided on 26th April, 1984 that,
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> Accrued rights cannot be taken away by Government by making amendment of the rules with retrospective effect.
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> (ii) In a case between ***State of Gujarat and another Vrs. Raman Lal Keshav Lal Soni and others*** reported in ***1983 (2) SCC 33*** that,
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> Government cannot take away the accrued rights of the petitioner and the appellant by making amendment of the Rules with retrospective effect.
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> (iii) In a case between ***State of Madya Pradesh Vrs. Yogendra Shrivastava*** reported in ***(2010) 12 SCC 538*** that,
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> Rights and benefits which have already been earned or acquired under the existing Rules cannot be taken away by amending the Rules with retrospective effect.

(iv) In a case between ***Baisnab Charan Panda and Ors.*** Vrs. ***State of Orissa and Ors.*** reported in ***130 (2020)CLT564*** that,

the resolution should have been prospective and could not have taken away the benefit already accrued to the party without involving the person likely to be affected in such process.

(v) In a case between ***Kamal Kishore Vrs. State and Others*** reported in ***(1995) 02 J & K CK 0008*** that,

the accrued rights and the benefits vested cannot be taken away be amendment to rules retrospectively.

(vi) In a case between ***Prestige Estates Projects Limited, through its Vice President, The Falcon House, No.1 Main Guard Cross Road, Bangalore Vrs. State of Tamilnadu and another*** (Madras) passed in ***W.P. Nos.25677 & 25678 of 2012*** decided on 13.12.2012 that,

accrued rights cannot be taken away by subsequent amendment/orders of the authorities.

(vii) In a case between ***Chandra Prakash Rath Vrs. State of Odisha and Ors.*** passed in ***W.P.(C) No.31150 of 2025*** that,

The operation of all the notifications and resolutions of the Government are prospective in nature, the same will not effect the rights already accrued prior to the Notifications and Resolutions of the Government.

So, in view of the propositions of law enunciated in the ratio of the aforesaid decisions, the operation of all the notification and resolutions of the Government are prospective in nature, but the same will have no retrospective effect.

6. It is the judicial coronary that, when the initial order is held to be illegal, then the documents/orders prepared on the basis of the said initial orders shall be deemed to be non-est in the eye of law.

On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:-

(i) In a case between ***Badrinath Vrs. Government of Tamilnadu and others*** reported in ***(2000) 8 SCC 395*** that,

once the basis of a proceeding is gone, may be at a later point of time by order of a superior authority, any intermediate action taken in the meantime would fall to the ground. This principle of consequential orders which is applicable to judicial and quasi-judicial proceedings is equally applicable to administrative orders.

(ii) In a case between ***State of Kerala Vrs. Puthenkavu N.S.S. Karayogam and another*** reported in ***(2001) 10 SCC 191*** that,

once the main impugned order is set aside any other consequential order made pursuant to the same would automatically become ineffective. (Para 9)

(iii) In a case between ***Mangal Prasad Tamoli (dead) by LRs Vrs. Narvadeshwar Mishra (dead) by LRs*** reported in ***2005 (3) SCC 422*** that,

if remand order was bad under law, then all further proceedings consequent thereto would be non-est and have to be necessarily set aside.

(iv) In a case between ***State of Punjab Vrs. Davinder Pal Singh Bhullar & Ors. etc.*** reported in ***2012 (51) OCR (SC) 220*** that,

if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reasons that illegality strikes at the root of the order.

(v) In a case between ***Chandra Prakash Rath Vrs. State of Odisha and Ors.*** passed in ***W.P.(C) No.31150 of 2025*** that,

When, the Authority has no power for correction of the R.o.R. on the basis of subsequent notification, then the correction made by such Authority in the R.o.R. through subsequent notifications to be held as illegal.

7. In this matter at hand, when much prior to the passing of the impugned order in Mutation Misc. Case No.5280 of 2025 and much prior to the correction of the status thereof of the Khata No.703/1056 standing in the name of the petitioner from sthitiban status to pattadar status, the R.o.R. of Khata No.703/1056 was in the name of the petitioner under sthitiban status, then at this juncture, in view of the propositions of law enunciated in the ratio of the aforesaid decisions, on the basis of the subsequent Notification issued by the Government in Revenue and Disaster Management Department vide LetterNo.RDM-CHS-PGOT-0303-2020-23868/R&DM,dated 02.07.2025, the sthitiban status under Khata No.703/1056 of the petitioner should not have been changed by the O.P. No.5 (Addl. Tahasildar, Bhubaneswar).

For which, the impugned order passed in Mutation Misc. Case No.5280 of 2025 by the Addl. Tahasildar, Bhubaneswar (O.P. No.5) for correction of the status of the R.o.R. of the case land vide Khata No.703/1056 standing in the name of the petitioner from sthitiban status to pattadar status and correction of the R.o.R. from sthitiban status to pattadar status as well as preparation of the R.o.R. vide Annexure-1 making correction of the same cannot be sustainable under law.

8. Therefore, there is justification under law for making interference with the impugned order passed in Mutation Misc. Case No.5280 of 2025 by the Addl. Tahasildar, Bhubaneswar (O.P. No.5) as well as the

preparation of the corrected R.o.R. (Annexure-1) through this writ petition filed by the petitioner.

9. So, there is merit in the writ petition filed by the petitioner. The same is to be allowed.

10. In result, the writ petition filed by the petitioner is allowed.

The impugned order passed in Mutation Misc. Case No.5280 of 2025 by the Addl. Tahasildar, Bhubaneswar (O.P. No.5) and the corrected R.o.R. (Annexure-1) on the basis of the impugned order passed in Mutation Misc. Case No.5280 of 2025 are quashed.

Due to quashing of the impugned order passed in Mutation Misc. Case No.5280 of 2025 by the Addl. Tahasildar, Bhubaneswar (O.P. No.5) and the corrected R.o.R. (Annexure-1), the O.P. No.5 (Addl. Tahasildar, Bhubaneswar) is directed through issuance of writ of mandamus for preparation of the R.o.R. of Khata No.703/1056 in the name of the petitioner under sthitiban status correcting the same from pattadar status, as it was prior to the passing of the impugned order passed in Mutation Misc. Case No.5280 of 2025 and the O.P. No.5 is directed to correct the said R.o.R. of the Khata No.703/1056 preparing the same under the sthitiban status in the name of the petitioner within a period of a week positively from the date of production of the certified copy of this judgment before the O.P. No.5.

11. As such, this writ petition filed by the petitioner is disposed of finally.

(A.C. Behera),
Judge.

Orissa High Court, Cuttack.
23.12.2025//Utkalika Nayak//
Junior Stenographer

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