IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC No.17775 of 2025
ODHC010445152025

(An application under Articles 226 and 227 of the Constitution of India)

Alli Ahad **....** **Petitioner**

-Versus-

State of Orissa and Ors. **....** **Opp. Parties**

For Petitioner : Mr. Kishore Kumar Mishra, Advocate

For Opp. Parties : Mr. S.N. Patnaik, [Additional Government Advocate]

M/s. Satyabadi Mantry & A.K. Sharma, Advocates [For Opp. Party Nos.5 to 8]

CORAM:
MR. JUSTICE SASHIKANTA MISHRA

JUDGMENT
20.11.2026

SASHIKANTA MISHRA, J.

The petitioner seeks to quash the parallel record of rights (RoR)/ Patta recorded under the Sikimi Khata No.04-

4 under Sthitiban Khata No.28 situated in Mouza Rampei, Tahasil Athagarh, Cuttack.

2. The facts of the case, briefly stated are that the grandfather of the petitioner namely, Moulabi Abdul Ahad was recorded as the original *Sthitiban* tenant under Khata No.28, as per settlement RoR finally published on 14.01.1963. The above record of rights was prepared pursuant to the Amin Report No.38 and the Munsarim Mistake case No.4/132. After the death of the original tenant, Mutation Case no.6965 of 2024 was initiated to mutate the property in favour of his legal heirs. A portion of the property under Plot No.1568 measuring Ac.0.50 decimals out of the Ac. 5.40 decimals was acquired by the National Highway Authority of India (NHAI). However, a part of the compensation was awarded to the Opp. Parties Nos. 5 to 8 basing on a parallel record of rights created under the *Sikimi* Khata No.04-4 in the names of their predecessors Krushna Chandra Khuntia and Gobinda Khuntia over plot Nos.1568 and 1569. The said record of rights is challenged in the present case.

3. Counter affidavit has been filed by the private Opp. Party Nos.5 to 8 stating that the title and ownership of the property under Khata No.28 corresponding to *Sikimi* Khata No.4-4 was subject matter in Civil Suit No.74 of 2012 before learned Senior Civil Judge, Athagarh, which was disposed of by judgment dated 14.08.2023, holding that the predecessor of the petitioner had duly transferred the land under plot no.1568 through RSD Nos.1312 and 1311 recognizing them as valid *sikimi* tenants over the property. It is further submitted that the court held that the rights of the *sikimi* tenants were heritable and transferable relying on the decision passed in the case of ***Daitary Swain vs. Kartika Swain and Ors.***[1] They further submit that the said judgment of the Civil Court is under challenge before the learned Additional district Judge, Athagarh in RFA No.12 of 2024, which is presently pending consideration for the prayer for condonation of delay.

[1] 2019(I) ILR-CUT 659

4. Heard Mr. K.K. Mishra, learned counsel for the petitioner, Mr. S.N. Patnaik, learned AGA and Mr. Satyabadi Mantry, learned counsel for the private Opp. Parties.

5. Mr. Mishra would argue that the settlement authorities lacked jurisdiction to create *sikimi* tenancy in favour of the predecessors of the private Opp. Parties contending that the creation of a parallel *Sikimi* tenancy record under Khata No.4-4 without statutory proceedings under the OLR Act was void *ab initio*. He further submits that the part compensation paid by the NHAI for a portion of the land under Plot No.1568 was fraudulently disbursed to the private Opp. Parties and their alienees. Hence, the parallel RoR under Annexure-4 should be quashed and the rightful proprietary rights of the Sthitiban family be protected.

6. Per Contra, Mr. Mantry would argue that the title over the suit land has already been decided by the civil court in Civil Suit No.74 of 2012 holding that the petitioner did not have the title over the suit land and upheld the rights of the opp. parties as sikimi tenants. He further submits that Krushna Chandra Khuntia and Gobinda Khuntia were lawful

sikimi tenants under the recorded landlord/raiyat, Moulabi Abdul Ahad, and the Settlement Authorities, acting well within their jurisdiction, recorded their names and prepared the record of rights under the *Sikimi* Khata. It is contended that since the original recorded raiyat never disputed the *sikimi* tenancy nor challenged the settlement entry within the statutory period of limitation before the Board of Revenue or the Civil Court, the petitioner lacks *locus standi* to challenge the same alone after an inordinate lapse of nearly 62 years. He further submits that until the said Civil Court judgment is reversed, it remains fully binding on the parties and cannot be bypassed through a writ petition to invalidate the finally published settlement records.

7. Mr. Patnaik would argue on similar lines and submit that the settlement operations were carried out lawfully in accordance with the existing revenue records and the disbursement of the land acquisition compensation was carried out accordingly. He further submits that since a competent civil court has already decided the matter on merits, the revenue entries published in 1963 cannot be

reopened or subjected to collateral challenge through writ jurisdiction.

8. Having heard both parties at length, it is evident that the dispute between the parties relates to right, title and interest over the case land, which has already been decided in Civil Suit No.74 of 2012 by the Senior Civil Judge, Athagarh.

9. It is not disputed that the private Opp. Parties claim title and *sikimi* rights over the case land on the basis of the recording in *sikimi* Khata No.04-4 published in 1963 and the subsequent sale deeds. The petitioner, on the other hand, claims title as a successor-in-interest of the original recorded *Sthitiban* tenant and assails the original settlement entry as void *ab initio* for want of proceedings under the OLR Act and challenges the consequential disbursement of NHAI compensation.

10. Perusal of the judgment in the civil suit shows that learned Civil Judge did not award the title of Khata No. 28 to the petitioner; rather, in respect of the suit land within Plot Nos.1568 and 1569 out of the three plots comprised in

the khata, the trial court negated the petitioner's claim and upheld that Gobinda Khuntia and Krushna Chandra Khuntia (Defendant No.1 in the civil suit) acquired tenancy under *Sikimi* Khata No.04-4, thereby attaining *raiyati* status over Plot No. 1568, and later made lawful transfer of portions of the land through valid registered sale deeds being R.S.D. Nos. 1312, 1311, 355, 1105, 659, and 625 to different individuals.

11. As regards the third plot, namely Plot No.1579, although the trial court recognized the same as the property of Moulabi Abdul Ahad, it declined to grant any declaratory relief in respect of the plot on account of non-joinder of the other legal heirs of the said Moulabi Abdul Ahad. Furthermore, as the Regular First Appeal remains pending at the threshold stage of condonation of delay and has not yet been admitted, the judgment of the Trial Court continues to remain in full force and effect.

12. As regards the contention that the original settlement entry creating *Sikimi* tenancy without statutory proceedings under the OLR Act is *void ab initio*, and that the petitioner came to know of the said parallel record of rights

only upon disbursement of NHAI compensation and filing of the mutation proceedings in 2024; this court feels that such a plea is wholly untenable as the record reveals that the petitioner was a party to Civil Suit No.74 of 2012, wherein the validity of *Sikimi Khata* No.4-4 and the transfers flowing therefrom were adjudicated upon on merits. Having contested the matter in the civil suit, the petitioner cannot circumvent the civil adjudication under the guise of an alleged *void ab initio* entry, especially when the legal heritability of such tenancy stands recognized by judicial precedent.

13. It would be apposite at this stage to refer to the judgment in the case of ***Jitendra Singh v. State of Madhya Pradesh and Others***[2], wherein the Supreme Court held the following: -

> ***"6.*** *It is not in dispute that the dispute is with respect to mutation entry in the revenue records. The petitioner herein submitted an application to mutate his name on the basis of the alleged will dated 20.05.1998 executed by Smt. Ananti Bai. Even, according to the petitioner also, Smt. Ananti Bai died on 27.08.2011. From the record, it emerges that the application before the Nayab Tehsildar was made on 9.8.2011, i.e., before the death of Smt. Ananti Bai. It cannot be disputed that the right on the basis of the will can be claimed only after the death of the executant of the will. Even the will itself has been disputed. Be that as it may, as per the settled*

[2] 2021 SCC OnLine SC 802

proposition of law, mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose. As per the settled proposition of law, if there is any dispute with respect to the title and more particularly when the mutation entry is sought to be made on the basis of the will, the party who is claiming title/right on the basis of the will has to approach the appropriate civil court/court and get his rights crystalised and only thereafter on the basis of the decision before the civil court necessary mutation entry can be made."

(Emphasis Added)

14. Thus, in light of the above view, when the title and ownership of plots in Khata No.28 have already been adjudicated upon by a competent Civil Court, they can only be finally settled through the hierarchy of the Civil Courts. Consequently, the petitioner on his own cannot seek to quash the record of rights concerning the suit land and the claim of compensation disbursed by the NHAI, which is dependent upon the adjudication of the proprietary rights. Thus, extraordinary writ jurisdiction under Article 226 of the Constitution cannot be invoked as a parallel forum to interfere with subsisting civil court findings or circumvent the statutory appellate hierarchy.

15. In light of the foregoing discussion, this Court finds no reason to interfere with the impugned record of rights. The writ petition is, therefore, dismissed. However, it

is made clear that dismissal of the writ petition shall not preclude the petitioner from pursuing the available legal remedies in the pending regular first appeal.

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(**Sashikanta Mishra, J.**)

Orissa High Court, Cuttack,
The 20th November, 2026/ B.C. Tudu, Sr.Steno

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