IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26295 of 2026
ODHC010630902026
W.P.(C) No.35198 of 2025
ODHC010885532025
W.P.(C) No. 26136 of 2026
ODHC010619902026
W.P.(C) No. 26296 of 2026
ODHC010631032026
W.P.(C) No. 26298 of 2026
ODHC010630932026
W.P.(C) No.26313 of 2026
ODHC010630982026
W.P.(C) No.26566 of 2026
ODHC010622732026
W.P.(C) No.26572 of 2026
ODHC010622782026
W.P.(C) No.26745 of 2026
ODHC010641202026
W.P.(C) No.27742 of 2026
ODHC010662232026
W.P.(C) No.27744 of 2026
ODHC010661872026
W.P.(C) No.28541 of 2026
ODHC010668952026
W.P.(C) No.28574 of 2026
ODHC010668962026
W.P.(C) No.28580 of 2026
ODHC010672682026
W.P.(C) No.28831 of 2026
ODHC010677292026
W.P.(C) No.29133 of 2026
ODHC010690282026
W.P.(C) No.29136 of 2026
ODHC010690332026

(Applications under Articles 226 and 227 of the Constitution of India)

W.P.(C) No.26295 of 2026

Radha Mirdha & Ors. ... Petitioners

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No.35198 of 2025

Sanju Meher ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No. 26136 of 2026

Rushi Kumar Bhoi ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No. 26296 of 2026

Dharmu Munda ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No. 26298 of 2026

Rakshi Bhoi ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No.26313 of 2026

Manish Kumar Behera ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No.26566 of 2026

Apurba Bagartti ... Petitioner

-versus-

The Registering Officer-Cum-Sub-Registrar, Maneswar & Ors. ... Opposite Parties

W.P.(C) No.26572 of 2026

Tulasi Dip ... Petitioner

-versus-

The Registering Officer Cum Sub Registrar, Sambalpur & Ors. ... Opposite Parties

W.P.(C) No.26745 of 2026

Bijay Kumar Naik ... Petitioner

-versus-

State of Odisha & Ors. ... Opposite Parties

W.P.(C) No.27742 of 2026

Raju Minz ... Petitioner

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) No.27744 of 2026

Artatrana Suresh ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) No.28541 of 2026

Suryamani Bhoi ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) Nos.28574 & 28580 of 2026

Dhanamali Mirdha ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) No.28831 of 2026

Baikuntha Naik ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) No.29133 of 2026

Pravasini Sohela ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

W.P.(C) No.29136 of 2026

Biswajit Kumbhar ... **Petitioner**

-versus-

State of Odisha & Ors. ... **Opposite Parties**

Advocates appeared in the case through hybrid mode:

For Petitioners : Mr. P.K.Mohanty,
Sr. Advocate.
Mr. P. Mohanty, Advocate

For Opposite Parties : Mr. G. Mohanty, S.C.

CORAM:
JUSTICE SASHIKANTA MISHRA

JUDGMENT
13.11.2026.

Sashikanta Mishra,J.

Since the facts and questions of law involved in all these writ applications are substantially similar and the matters have been heard analogously, they are being disposed of by this common judgment. For the sake of brevity and convenience, however, the facts of W.P.(C) No.26295 of 2026 shall be considered and referred to.

2. The petitioners have filed this Writ Petition seeking to challenge the refusal of the Sub-Registrar, Sambalpur to accept the sale deed presented by them for registration. The petitioners claim to be the recorded tenants of the suit land. For legal necessity they decided to sell the property to the Opposite Party No.4. Accordingly, a sale deed was prepared and presented before the Sub-Registrar, Sambalpur but he refused to accept the same. Such refusal was on the ground that though the petitioners belong to the Scheduled Tribe and the Opposite Party No.4 is a non-Scheduled Tribe person, no permission under Section 22 of the OLR Act was obtained by them for such transfer. The petitioners contend that the land being situated within the urban area i.e., Sambalpur Municipal Corporation, the provisions of OLR Act are not attracted as per Section 73(c) of the Act.

3. Counter affidavit has been filed by the Sub-Registrar in W.P.(C) No.35198/2025 and adopted in all cases of the batch, including the present case. It is stated that though the land is recorded as *Gharabari* and situated in urban

area within Sambalpur Municipal Corporation, still permission under Section 22 of the OLR Act is necessary for transfer of the land as the petitioners belong to the Scheduled Tribe. Mere inclusion in the urban area cannot exempt the applicability of the mandatory provisions of the OLR Act. The document was therefore, rightly not accepted for registration.

4. Heard Mr. B. Bhuyan, learned Senior counsel, leading arguments on behalf of the petitioners and Mr. G. Mohanty, learned Standing Counsel for the State.

5. Before proceeding further, this Court deems it proper to mention here that several cases involving identical facts have been disposed of by issuing directions similar to those issued by a coordinate Bench in the judgment rendered in the case of ***Hemanta Naik v. State of Odisha, represented through its Secretary, Revenue and Disaster Management Department and Another & batch***[1]. When the present cases came up for hearing, the State filed a counter affidavit and attempted to take a

[1] W.P.(C) No.27920 of 2023 & Batch

different stand by contending that directions similar to those issued in ***Hemanta Naik (Supra)***, being contrary to law, should not be issued. The matter was heard at length on this point

6. Since the objection was raised by the State, it would be proper to refer to the contentions advanced by the State counsel at the outset.

7. Mr. G. Mohanty learned Standing Counsel for the State, makes a two-fold argument. Firstly, having itself held that mere inclusion of the land in an urban area would not exclude the applicability of the provisions of Section 22 of the OLR Act, the Co-ordinate Bench directed the revenue authority to make a fact-finding inquiry in each case regarding usability of the land in question for purposes other than agriculture. Secondly, the judgment of the Co-ordinate Bench was passed contrary to the ratio decided by the Supreme Court in the case of ***Om Prakash Agrawal and others v. Batara Behera***[2] and, hence, cannot be treated as a precedent being *per incuriam.* On such basis, it

[2] 1999 (3) SCC 231

is contended that the judgment in ***Hemanta Naik (supra)*** can be ignored. Mr. Mohanty has relied upon several judgments in support of his contentions, but in view of the order proposed to be passed, this Court does not deem it necessary to refer to the same.

8. Mr. Bhuyan, learned Senior counsel, on the other hand, would argue that it is nobody's case that only because the land is included in the urban area, the provisions of Section 22 of the OLR Act shall not apply. It is rather the specific case of the petitioners that the land is not being used for agricultural purposes, having been recorded as homestead (*Gharbari Kisam*). It is the usability of the land which is material. Mr. Bhuyan further argues that the Co-ordinate Bench took due note of the judgment of the Supreme Court in the case ***Om Prakash Agrawal (Supra)*** and therefore, it cannot be treated as having been rendered *per incuriam.*

9. After hearing learned counsel for the parties at length, this Court is firstly of the view that the judgment passed by the Co-ordinate Bench in ***Hemanta Naik (Supra)*** was

never challenged by the State nor sought to be reviewed. The State also did not challenge the orders passed by this Court in the light of the directions issued in ***Hemanta Naik (Supra).*** In fact, as stated at the Bar, some of such directions have already been complied with. Therefore, this Court is of the view that it is no longer open to the State to raise the point at this belated stage.

10. Coming to the other contention that the judgment in ***Hemanta Naik (Supra)*** was rendered *per incuriam* and can be ignored for being contrary to the ratio decided in ***Om Prakash Agrawal (Supra)***, the same principle would apply to the effect that this is also a matter for challenge by the State before the higher forum, which it has not done so far. Nevertheless, this Court finds that the Coordinate Bench has referred to the judgment in ***Om Prakash Agrawal (Supra)*** and taking note of the specific observations therein that the OLR Act applies to all lands which are used or capable of being used for agricultural purposes irrespective of where such lands are situated, found it necessary to direct a fact-finding inquiry regarding the usability of each

parcel of land. It goes without saying that the determination regarding usability of the land can only be a question of fact to be decided independently in each case. Therefore, this Court, on the same facts, has felt persuaded to pass identical orders.

11. This Court is in respectful agreement with the reasoning adopted by the Co-ordinate Bench in ***Hemanta Naik (Supra)*** and is therefore, not inclined to take a different view. The contention that ***Hemanta Naik (Supra)*** being decided *per incuriam* can be ignored, is not accepted.

12. For the foregoing reasons therefore, this Court finds no merit in the contentions raised by the State and therefore, issues the following directions in disposal of this batch of writ petitions.

13. Liberty is granted to each Petitioner to approach the competent Revenue Authority, i.e. concerned Tahasildar to give his opinion on the usability of the land and in such event, the concerned Tahasildar shall submit his opinion in respect of the specific lands regarding its usability for agricultural purpose in the present scenario, within a

period of 60 days from the date of application by the petitioners. Depending upon the opinion of the Revenue Authority, the Petitioners are at liberty to approach the Sub-Collector/Registering Officer again.

14. The Writ Petitions are disposed of accordingly.

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Sashikanta Mishra,
Judge

Ashok Kumar Behera

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Reason: Authentication
Location: High Court of Orissa, Cuttack
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