

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
M. A NO. - 16 /2025/ EZ**

**(ARISING OUT OF ORIGINAL APPLICATION NO.-114 OF 2022/  
EZ WHICH WAS DISPOSED OF ON 22.03.2023).**

**IN THE MATTER OF:**

**PRAMOD KUMAR SETHI**

**.....APPLICANT**

**VERSUS**

**SIRIN TAMMANA AND OTHERS**

**.....RESPONDENTS**

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PLACE: Bhubaneswar

*S.Pani* *A.Padhy*

DATE: 07/04/2025

SANKAR PRASAD PANI

ASHUTOSH PADHY

ADVOCATE

Plot 2132/4814, Nageswartangi, Bhubaneswar 751002 Cell-9437279278,

Email: [sankarprasadpani@gmail.com](mailto:sankarprasadpani@gmail.com)

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**M.A NO.- /2025/EZ**

**(ARISING OUT OF ORIGINAL APPLICATION NO.-114 OF 2022/EZ  
WHICH WAS DISPOSED OF ON 22.03.2023).**

**IN THE MATTER OF:**

An Application under Section 18(1) read with 14  
of the NGT Act, 2010.

**IN THE MATTER OF:**

Seeking quashing of the Eviction Notice dated  
03/02/2025 AND order dated 21/01/2025 issued by  
Tahasildar, Berhampur by wrongly interpreting the order  
of Hon'ble NGT dated: 22/03/2023 Passed in O.A No:  
114 of 2022/EZ .

**IN THE MATTER OF:**

**Pramod Kumar Sethi, residing** at: Panda Colony,

PO: Engineering School, Berhampur -760010,

Dist: Ganjam, Odisha

.....**Applicant in this M.A**

**-VERSUS-**

**1. Sirin Tammana**, W/O:Rashmin Kumar Panda, aged about 38 years,  
Advocate by Profession, resident of Panigrahy Nagar, Po: Panigrahy  
Pentho, First Gate, Digapahandi Road, P/S: Badabazar, Berhampur-  
760006, Dist: Ganjam, Odisha

2. **Madhusmita Jadab**, D/O: Late Kailash Chandra Jadab, aged about 39 years, Advocate by Profession, resident of Babajitota Street, Po: Berhampur, P/S: Badaiyanathpur, Berhampur-760001, Dist: Ganjam, Odisha
3. **Kishore Chandra Behera**, S/O: Late Parsuram Behera, aged about 53 years, Advocate by Profession, resident of Lanjipalli Main Road, Po: Berhampur, P/S: Badaiyanathpur, Berhampur-760008, Dist: Ganjam, Odisha
4. **Natabara Sahu**, S/o: Late Gurunath Sahu, aged about 63 years, Vill/Po: Indrakhi, P/S: Golonthara-761008, District: Ganjam, Odisha (Respondent No.: 01 to 04 in this M.A are the Original **Applicants No: 01 to 04 in the O.A) Email Id's of Respondent No: 01 to 04 is not available**)

#### **5. STATE OF ODISHA**

Represented by its Chief Secretary, Government of Odisha,  
State Secretariat, Bhubaneswar-751001, Odisha

E mail: [csori@nic.in](mailto:csori@nic.in),

**6. Additional Chief Secretary to Government**, Revenue  
and Disaster Management Department, Government of Odisha,

State Secretariat, Bhubanswer-751001, Odisha, E mail: [revsec.od@nic.in](mailto:revsec.od@nic.in)

#### **7. MEMBER SECRETARY**

Odisha State Pollution Control Board, Paribesh Bhawan, A/118, Nilakantha  
Nagar, Unit - VIII, Bhubaneswar-751012, Odisha

**Email:membersecretary@ospboard.org**

**8. The Revenue Divisional Commissioner**, Southern Division, At/Po: Berhampur, Pin – 760004, District: Ganjam, Odisha, Email: [rdcbmp@nic.in](mailto:rdcbmp@nic.in)

**9. The Collector-Cum-District Magistrate**, Ganjam Collectrate, Chatrapur-761020, Dist: Ganjam, Odisha, Email: [dm-ganjam@nic.in](mailto:dm-ganjam@nic.in)

**(Present Respondent No: 05 to 09 are Respondent No: 01 to 05 in O.A)**

**10. The Tahasildar**, Berhampur. At/po- Berhampur, Dist- Ganjam  
Email: [tah.berh-od@nic.in](mailto:tah.berh-od@nic.in)

**...RESPONDENTS**

THE HUMBLE MISC. APPLICATION OF THE  
ABOVE NAMED APPLICANT.

**M.A FOR QUASHING OF ORDER DATED 21/01/2025 AND EVICTION  
NOTICE DATED 03/02/2025 PASSED BY ESTATE OFFICER- CUM -  
TAHASILDAR, BERHAMPUR**

**IT IS MOST RESPECTFULLY SHOWETH**

1. That the Misc. Application is being filed by the present Applicant with reference under Section 18(1) read with 14 of the NGT Act, 2010.
2. That the Applicant is fully acquainted the facts and circumstances of the Case and he is aggrieved Party to file this M.A and the Present Applicant was not a necessary Party while deciding the O.A No: 114 of 2022/EZ before this Hon'ble Tribunal. So, the Applicant is forced to knock the

door of this Hon'ble Tribunal to redress his grievance and proper adjudication of the issues involved in this Case.

3. That the present application has been filed by the applicant challenging the order dated 21/01/2025 and notice dated 03/02/2025 passed by the Estate Officer-Cum- Tahasildar, Berhampur for eviction of the applicant from the Plot Number 101, Khata No 27, Area 0.017, Kisam-Jalasy/Adi. Needless to say that the proceeding dated 21/01/2025, which is the foundation of the eviction notice dated 03/02/2025 relies on the Direction of Hon'ble NGT Passed in OA No: 114 of 2022/EZ, even though there was no such direction for eviction. Copy of the order 21/01/2025 and Eviction Notice dated 03/02/2025 is annexed here with as **ANNEXURE-1 and 1A respectively**.
4. It is pertinent to mention here that in the order dated 21/01/2025 of the Estate Officer-Cum- Tahasildar, Berhampur it is categorically mentioned that *"The case is taken up today. Gone through the direction passed by the Hon'ble Zone Magistrate, Eastern Zone Bench, NGT in O.A. No. 114/2022/EZ/2022, wherein the Hon'ble court has issued direction for eviction of the encroachers unauthorisedly occupied the public premises in the below mentioned land Schedule. The undersigned being the Estate Officer as per the OPP Act 1972 is authorised by the competent authority for eviction of the encroachment on the public premises while following due procedure of law. As per the aforesaid direction notice was issued earlier on 03.08.2024 for hearing and further necessary action. for eviction of the encroachment. However in*

*the meantime a stay order of the Hon'ble High court in W.P.(C) No.21598 of 2024, 21891 of 2024,21874 of 2024,21884 of 2024, 21876 of 2024, and 21894 of 2024 were received and the eviction could not be made adhering to the instruction of the Hon'ble court. In view of the direction passed by the Hon'ble Zone Magistrate, Eastern Zone Bench, NGT in O.A. No. 114/2022/EZ/2022, the case record is reopened today.”*

That the above mentioned order dated 21/01/2025 is false and misleading as because the Hon'ble Tribunal in order dated 22/02/2023 nowhere directed to evict the encroachers from the said land.

5. That the Original Application No. 114 of 2022/EZ was disposed of by the Hon'ble Tribunal on 22/03/2023 and the operating portion of the order there is no direction for eviction from the water body which has lost its character and the subsequent encroachment. The relevant portion of the Judgement is reproduced as follows:-

“We, therefore, dispose of the Original Application No.114/2022/EZ with the directions to the Respondent No.5, Collector-cum-District Magistrate, Ganjam as under:- (i) Steps shall be taken by the Respondent to protect the remaining area of Baula Bandha with proper railing/fencing or wall or guard wall of appropriate height to ensure that there are no further encroachments into the water body. (ii) The embankment of the Baula Bandha shall be protected by planting grass and other shrubs and creating an eco-friendly park all around which can be used by the general public for recreational) The eco-friendly embankment shall be planted with local shrubs and bushes or even

ornamental plants specifically designed to protect the embankment from degradation and erosion. (iv) **The original area of Baula Bandha is stated to be 5.809 decimal out of which an area of 2.421 acres is stated to have lost its character as such with the passage of time and therefore encroached upon.** This means that half the total area of the original Baula Bandha has been completely destroyed. (v) **The Respondent No.5 shall therefore identify a site as far as possible close to Baula Bandha and if that is not possible, in some other area nearby having an area of Ac.2.421**(vii) The Odisha State Pollution Control Board shall take water samples from the existing Baula Bandha every six months including the new water body to be created as directed 18 herein above and if the water parameters are not in conformity with the parameters prescribed by the Pollution Control Board or Ministry of Environment, Forests and Climate Change (MOEF&CC), appropriate and stringent directions in this regard shall be given by State Pollution Control Board to the concerned authority and ensure compliance of the directions. (viii) The directions given hereinabove shall be complied with by the State Respondents by 31.12.2023 and affidavit of compliance shall be filed by the District Magistrate, Ganjam, before the Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata by 14.01.2024.” Copy of the Judgement **dated 22/03/2023** passed in OA No: 114 of 2022/EZ is annexed here with as **ANNEXURE-2**.

6. That the Eviction Notice is bad in law for the reason there was no Such Direction from Hon'ble NGT to evict the encroachments and in the

present case the applicants are residing for last 50 years on the land in question stated to be of Jalasay Kisam.

7. It is a settled Principle that the State Government is duty bound for rehabilitation of the petitioner prior to the process of Eviction. The Plots in question is coming under the preview of the Berhampur Municipal Corporation. The Hon'ble National Green Tribunal (NGT), Eastern Zone Bench **had already Passed order on 24.08.2017 in O.A No: 82 of 2015/EZ that prior to process of Eviction the Municipal Corporation should take a step for rehabilitation of the People.** The Plot in question has been recorded as Jalasaya/ Adi during the Period of Settlement operation of the locality. But, with passage of time the Kissam of the land has lost its character and the Petitioner along with the forefathers are living in the land in question since last 50 years. The Petitioner is entitled to get the settlement right as per the rules and regulations of the State Government. The Tahasildar has no authority to initiate Eviction proceeding against the Petitioner without consultation with the Berhampur Municipal Corporation for the rehabilitation of the Petitioner. It is apt to mention here that the Petitioner is living in the above Plot by constructing a building and at no Point of time the State Government officials had objected to the Petitioner. In this locality the Berhampur Municipal Corporation has constructed a concrete road/ drain and other Government development works has been under taken for the betterment of the large number of peoples. It is apt to mention here that the Tahasildar, Berhampur without following the due process of law and

particularly against the observations made in the order dated: 24.08.2017 Passed in O.A No: 82 of 2015/EZ has taken bold steps against the Applicant. **The issue is already settled before this Hon'ble Tribunal that without rehabilitation/ resettlement no eviction could be done** in the Berhampur Municipal Corporation area. The Hon'ble Tribunal while deciding the issue regarding encroachment/ eviction from the water body situated in Berhampur Municipal Corporation Jurisdiction. The same issues is also fully applicable to the Present Case of the Applicant, but the Tahasildar, Berhampur, Ganjam ignoring the observations made in the O.A No: 82 of 2015/ EZ has taken steps against the Applicant. Copy of the orders dated: 24.08.2017 Passed in O.A No: 82 of 2015/EZ is annexed here to as **ANNEXURE-3**.

8. As because the character Jalasaya/ Adi has already lost, the Municipal Corporation has taken steps and utilized the Government funds for the development of the locality. Further the State Government has allotted the Jalasaya land to the Life Insurance Corporation of India vide Alienation Case No: 02 of 2003 (newly assigned Plot No: 101/266 and 101/283 of Khata No: 18/142 and another Plot No: 101/99. 102/198 of Khata No: 18/92 have been allotted in favor of the Weekly News Paper Nabeen vide Alienation Case No: 631 of 1993. Surprisingly, by way of Change of Kissam the State Government has taken steps for Alienation of the Jalasya Plot in favor of Life Insurance Corporation of India (LIC) and Sampadaka, Weekly News Paper Nabeen. But, the State

Government is not taking steps for the settlement of the land in favor of the Petitioner by way of Alienation.

9. It is further submitted that the present applicant cannot be treated differently when from the same parcel of land, alienation has already been made in favour of some person on the ground that the Character of the land has already been changed, Hence the present notice is also bad in law as it violates spirit of Article 14 of Constitution of India. The State has no authority to apply different steps/ attitude in respect of the present Petitioner/ Applicant.
10. The Petitioner's ancestors have constructed the house for residential purpose and the Petitioner and his family members are residing in this place till date. The Revenue Department has failed to settle the land in the name of the Petitioner, even though the Kissam of the land has lost its original character. It is apt to mention here that in the interest of justice the State Government should take necessary steps to change the Kissam of the Plot in question.
11. The Applicant/ Petitioner is a landless person and belongs to Scheduled Cast Community as well as poor and needy person. Hence, the Petitioner/ Applicant is living in this house since the long. It is humbly prayed that the matter should be considered in the light of **order dated: 11.10.2012 Passed in W.P.C No: 8797 of 2004 in OJC No: 6721 of 1999 by the Hon'ble Orissa High Court in the matter of Tapan Kumar Das- Versus Commissioner, Cuttack Municipal Corporation and others** for the ends of justice.
12. It is respectfully submitted here that the Collector- Cum-District Magistrate, Ganjam in his Counter affidavit dated: 09.11.2022 filed in

O.A No: 114 of 2022/EZ at para-5 has cited the Judgment/ order Passed by the Hon'ble Orissa High Court in the matter of Tapan Kumar Das ( Supra). In this Case the Hon'ble Orissa High Court categorically observed that if the Jalasya lost its character then the State Government is empowered to change its classification. Basing on the said order of the Hon'ble Orissa High Court major portion of the land in the said plot has already been allotted to Life Insurance Corporation of India Limited/ Sampadaka weekly news Paper Nabeen and other portions also allotted for development purpose to the Berhampur Municipal Corporation. Again it is reiterated here that the Collector, Ganjam has also admitted in his same Counter affidavit filed in the O.A at Para-6 (a) to (d) that the nature and character of the land has already been changed and accordingly the State Government allotted the piece of land from the same Plot to the different authorities and Persons for development purpose like School, Pathagara, road, drain, children's Park, Poor and needy peoples rehabilitation centre etc. Copy of the Counter affidavit dated: 09.11.2022 filed in O.A No: 114 of 2022/EZ by the Collector, Ganjam along with Caste Certificate of the Applicant/ Petitioner is annexed here with as **ANNEXURE-4 & 5 respectively.**

13. That it is humbly submitted here that the Collector, Ganjam filed his affidavit dated: 12.09.2024 in M.A No: 30 of 2024/EZ and stated there in that the alternate land has already been identified to create a water body in compliance to the Judgment dated: 22.03.2023 Passed in O.A No: 114 of 2022/ EZ and accordingly this Hon'ble Tribunal vide order dated: 07.01.2025 observed at Para-3 *"In this affidavit, with regard to the direction of the Tribunal to create a waterbody in an alternative*

*area of 2.421 acre, it is stated that the Tahasildar, Berhampur vide his letter dated 10.08.2022 had earlier furnished the said aforesaid land schedule of area 35.409 acre which was covered with water plants, bushes, filled with earth mane and silt wherein the required area of 11.512 acre of waterbody can be recreated by digging and renovating. It is stated that in response to the instructions of the Collector, Ganjam, the Berhampur Municipal Corporation Authority has undertaken renovation and recreation of the aforesaid Government land under the ATAL Mission for Rejuvenation and Urban Transformation Scheme (AMRUT Scheme) for the whole area of 35.409 acre.”* and accordingly the Collector, Ganjam intimated such facts to the Commissioner, Berhampur Municipal Corporation vide letter No: 1925/Rev/ dated: 23.08.2024 which is also available under Annexure- B of the Compliance affidavit dated: 12.09.2024 of the Collector, Ganjam filed in M.A No: 30 of 2024/EZ. Surprisingly, in the other hand the Tahasildar, Berhampur without consultation with the Collector, Ganjam and Commissioner, Berhampur Municipal Corporation has initiated process of Eviction against the Applicant, and the same is illegal and unwarranted. Since the order of Hon’ble NGT has already been complied in terms of by providing alternative land for construction of pond, hence the present proceeding to evict the applicant is in the garb of Hon’ble NGT order is unwarranted and not in conformity with the order passed by Hon’ble NGT. Copy of the order dated: 07.01.2025 Passed in M.A No: 30 of 2024/EZ and letter No: 1925/Rev/ dated: 23.08.2024 is annexed here with as **ANNEXURE-6 & 7 respectively.**

14. That the Collector, Ganjam has admitted at Para-7 (b) of his Counter affidavit dated: 09.11.2022 filed in O.A No: 114 of 2022/EZ that in the locality encroachment has been started since the Period 1982 onwards and accordingly Appellate authority i.e. Sub- Collector, Berhampur, Ganjam has Passed order on 22.11.1995 and framed 5 issues and directed the Tahasildar, Berhampur , Ganjam to decide the issues based on the 5 issues fixed by him. But, till date the Tahasildar, Berhampur has failed to carry out the order dated: 22.11.1995 of the Appellate authority and the Applicant as on date is fulfilling the 5 conditions/ issues framed by the Appellate authority- Cum- Sub- Collector, Berhampur, Ganjam which has been narrated by the Collector, Ganjam in his affidavit dated: 09.11.2022 at Para-6( b). Therefore, in view of the above parameter of law the Tahasildar issued eviction notice against the Applicant by violating all the norms and conditions prescribed under the law. Thus, the Applicant is fully entitled to get the land by way of settlement, in view of the terms and conditions fixed by the Appellate authority.
15. That the applicant / Petitioner has also made a representation on 14/02/2025 to the different authorities including Tahasildar, Berhampur, Ganjam for consideration of his case and also take appropriate steps for settlement of the land in favour of the present applicant. Copy of Representation dated 14/02/2025 is annexed here with as **ANNEXURE-8.**

### **P R A Y E R**

Hence, it is therefore prayed that the Hon'ble Tribunal may be pleased to admit the Application and after hearing both parties to pass necessary order/orders:-

- A.** As an interim measure to stay the eviction proceeding dated: 21.01.2025 passed by the Respondent No: 10 in respect of the present applicant till disposal of the M.A.
- B.** Hold and declare that order of NGT dated 22/03/2023 is not applicable to the instant case as there was no such direction for eviction.
- C.** To declare that the Eviction notice dated 03/02/2025 and Eviction Proceedings dated 21/01/2025 is illegal and not in accordance with the Hon'ble NGT order dated 22/03/2023 passed in O.A No: 114 of 2022/EZ.

Pass such other orders be also passed in favor of the Applicants as deemed fit and proper in the facts and circumstances of the case.

**And** for this act of kindness, the humble applicants as in duty bound shall ever pray.

**DATE: 7<sup>th</sup> April 2025**

**BY THE APPLICANT**

**Place: Bhubaneswar**

Handwritten signatures of Sankar Parasad Pani and Ashutosh Padhy. The signature of Sankar Parasad Pani is written in cursive and underlined. The signature of Ashutosh Padhy is written in a similar cursive style to the right of the first signature.

**THROUGH ADVOCATE**

**(SANKAR PARASAD PANI)**

**(ASHUTOSH PADHY)**



**VERIFICATION**

Verified on this the 07/04/2025 at Bhubaneswar that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

**IDENTIFIED BY**

*Adv. Jay*  
*07/04/23*

**ADVOCATE**

*Ramesh Keshan Sella*

**DEPONENT**



The above named deponent(s) being  
duly identified by Sri.....  
Advocate, Bhubaneswar.  
Appears before me on 07 APR 2025  
at.....A.M./P.M.....  
on oath the contents of the affidavit  
are true to the best of his / her / their  
knowledge and belief

*[Handwritten signature]*

**JANMEJAYA RAUTRAY**  
**NOTARY, GOVT. OF ODISHA**  
**BHUBANESWAR**  
**REGD. NO - GN-36/2012**  
**Mob. No. - 9337121273**

## Continuation Order Sheet

Date of  
action  
taken on  
order

1

2

3

21.01.2025

The case is taken up today. Gone through the direction passed by the Hon'ble Zone Magistrate, Eastern Zone Bench, NGT in O.A. No. 114/2022/EZ/2022, wherein the Hon'ble court has issued direction for eviction of the encroachers unauthorisedly occupied the public premises in the below mentioned land Schedule. The undersigned being the Estate Officer as per the OPP Act 1972 is authorised by the competent authority for eviction of the encroachment on the public premises while following due procedure of law. As per the aforesaid direction notice was issued earlier on 03.08.2024 for hearing and further necessary action for eviction of the encroachment. However in the meantime a stay order of the Hon'ble High court in W.P.(C) No.21598 of 2024, 21891 of 2024, 21874 of 2024, 21884 of 2024, 21876 of 2024, and 21894 of 2024 were received and the eviction could not be made adhering to the instruction of the Hon'ble court. In view of the direction passed by the Hon'ble Zone Magistrate, Eastern Zone Bench, NGT in O.A. No. 114/2022/EZ/2022, the case record is reopened today.

Issue a notice to Pramod kumar sethy, At-Kalapuri, Berhampur under Orissa Public Premises (Eviction of As per the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 to appear in the Court of the undersigned on 31.01.2025 at 11:00 AM with relevant documents for an opportunity to be heard.

**Land Schedule**

Mouza	Khata No.	Plot No.	Extent (Area)	Kissam
Kalapuri	27	101	0.017 out of 0.911	Jalasya & Adi

Put up on 31.01.2025

(Dict)

*[Signature]*  
Estate Officer-cum Tahasildar,  
Berhampur  
BERHAMPUR

Form-B

[See Rule 5]

Form of order under Sub-section (1) of Section 5 of the Orissa  
Public Premises (Eviction of Unauthorised Occupants) Act, 1972

Whereas I, the undersigned, satisfied for the reasons recorded below that **Sri Promod kumar sethy, S/o- Simanchala sethy, At-Kalapuri, Berhampur** is in unauthorised occupation of the public premises specified in the Schedule below.

## REASONS

[A copy of order dated 31.01.2025 in OPP (EoU) case no.11/2022 is enclosed]

Now, therefore, in exercise of the powers conferred on me under Sub-section (1) of Section 5 of the Orissa public premises (Eviction of Unauthorised Occupants) Act, 1972 hereby order that said **Sri Promod kumar sethy, S/o- Simanchala sethy, At-Kalapuri, Berhampur** to vacate the said premises **within 15 days** of the date of publication of this order. In the event of refusal or failure to comply with this order with in the period specified above, the said **Sri Promod kumar sethy** is liable to be evicted from the said premises, if need be by use of such forces as may be necessary.

Land Schedule

Mouza	Khata No.	Plot No.	Extent (Area)	Kissam
Kalapuri	27	101	0.017 out of 0.911	Jalasaya & Adi

DATED - 03/02/2025

*H. H.*  
Tahasildar  
BERHAMPUR

*Promod Kumar Setty*

Item No.07

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.114/2022/EZ

**In the matter of:**

**1. Sirin Tammana**

W/o: Rashmin Kumar Panda,  
Aged about 35 years, Advocate by Profession,  
Resident of Panigrahy Nagar,  
Po: Panigrahy Pentho, First Gate,  
Digapahandi Road,  
P/S: Badabazar,  
Berhampur – 760006,  
Dist: Ganjam,  
Odisha

**2. Madhusmita Jadab**

D/o: Late Kailash Chandra Jadab,  
Aged about 35 years, Advocate by Profession,  
Resident of Babajitota Street,  
Po: Berhampur,  
P/S: Badaiyanathpur,  
Berhampur – 760001,  
Dist: Ganjam,  
Odisha

**3. Kishore Chandra Behera**

S/o: Late Parsuram Behera,  
Aged about 50 years, Advocate by Profession,  
Resident of Lanjipalli Main Road,  
Po: Berhampur,  
P/S: Badaiyanathpur,  
Berhampur – 760008,  
Dist: Ganjam,  
Odisha

**4. Natabara Sahu**

S/o: Late Gurunath Sahu,  
Aged about 61 years,  
Vill/Po: Indrakhi,  
P/S: Golonthara,  
Pin – 761008,  
Dist: Ganjam,  
Odisha

**.... Applicant(s)**

Versus

**1. State of Odisha**

Represented by it's Chief Secretary to Govt. of Odisha,  
State Secretariat,

Bhubaneswar,  
Pin – 751001,  
Odisha

**2. Additional Chief Secretary to Government**

Revenue and Disaster Management Department,  
Government of Odisha,  
State Secretariat,  
Bhubaneswar,  
Pin – 751001,  
Odisha

**3. Member Secretary**

Odisha State Pollution Control Board,  
Paribesh Bhawan,  
A/118, Nilakantha Nagar,  
Unit-8, Bhubaneswar,  
Pin – 751012,  
Odisha

**4. Revenue Divisional Commissioner**

Southern Division,  
At/Po : Berhampur,  
Pin – 760004,  
District: Ganjam,  
Odisha

**5. Collector-cum-District Magistrate, Ganjam Collectorate,**

At/Po : Chatrapur,  
Pin – 761020,  
Dist. : Ganjam,  
Odisha

.... Respondent(s)

Date of hearing: 22.03.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Biranchi Narayan Mahapatra, Adv. (in Virtual Mode)

For Respondent(s) : Ms. Papiya Banerjee Bihani, Adv. for R-3 (in Virtual Mode),  
Mr. Anand Prakash Das, ASC for R-4 & 5 (in Virtual Mode)

**ORDER**

1. This Original Application has been filed by the Applicant alleging that the Baula Bandha water body and its embankment relating to the Plot No.100 (Ac. 1.341 Decimal), 100/132 (Ac. 0.020 Decimal), 101 (Ac. 3.426 Decimal), 101/166 (Ac. 0.180 Decimal), 102 (Ac. 0.842 Decimal) which is recorded as Jalasaya-ii and its

embankment measuring area AC. 3.001 Decimal out of total area measuring Ac. 5.809 Decimal of Khata No.27 at Kalapuri Mouza (Panda Colony, near Engineering School) under Berhampur Tahasil of Ganjam District of Odisha, has been illegally encroached by various persons and constructions have been made thereon, thereby destroying a considerable part of the waterbody.

2. The learned Counsel for the Applicant submits that encroachment of waterbody has been seriously viewed by the Hon'ble Supreme Court of India. In (2001) 6 SCC 496 *Hinch Lal Tiwari Vs. Kamala Devi & Others* the State has been directed to ensure that no waterbody is allowed to be encroached and if there are encroachments over the waterbody, the same have to be removed. The relevant extract of the judgment reads as under:-

*“It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature’s bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is failing in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites. For the aforementioned reasons, we set aside the order of the High Court, restore the order of the Additional Collector dated 25-2-1999 confirmed by the Commissioner on 12-3-1999. Consequently, Respondents 1 to 10*

*shall vacate the land, which was allotted to them, within six months from today. They will, however, be permitted to take away the material of the houses which they have constructed on the said land. If Respondents 1 to 10 do not vacate the land within the said period the official respondents i.e. Respondents 11 to 13 shall demolish the construction and get possession of the said land in accordance with law. The State including Respondents 11 to 13 shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the interest of the villagers. Further it will also help in maintaining ecological balance and protecting the environment in regard to which this Court has repeatedly expressed its concern. Such measures must begin at the grass-root level if they were to become the nation's pride.”*

3. In (2018) 13 SCC 390, National Institute of Medical Science University Rajasthan & Anr. Vs. State of Rajasthan & Ors., the Hon'ble Supreme Court has affirmed the view taken by the Court in Jagpal Singh (supra). Paragraphs 40, 41 and 42 of the judgment read as under:-

*“40. In M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu and Ors.<sup>1</sup> this Court directed enforcement of the rule of law by demolition of unauthorized constructions. It was held as follows:*

*“The High Court has directed dismantling of the whole project and for restoration of the park to its original condition. This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorized. This dicta is now almost bordering the rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise judicial*

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<sup>1</sup>(1999) 6 SCC 464

*discretion in moulding the relief. Such discretion cannot be exercised which encourages illegality or perpetuates an illegality. Unauthorized construction, if it is illegal and cannot be compounded, has to be demolished. There is no way out. Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judges are not entitled to exercise discretion wearing the robes of judicial discretion and pass orders based solely on their personal predilections and peculiar dispositions. Judicial discretion the wherever it is required to be exercised has to be in accordance with law and set legal principles. As will be seen in moulding the relief in the present case and allowing one of the blocks meant for parking to stand we have been guided by the obligatory duties of the Mahapalika to construct and maintain parking lots.”*

41. This view was followed and endorsed in *Jagpal Singh* in the following words:

*“In M.I. Builders (P) Ltd. v. Radhey Shyam Sahu the Supreme Court ordered restoration of a park after demolition of a shopping complex constructed at the cost of over Rs. 100 crores.*

*In Friends Colony Development Committee v. State of Orissa<sup>2</sup> this Court held that even where the law permits compounding of unsanctioned constructions, such compounding should only be by way of an exception. In our opinion this decision will apply with even greater force in cases of encroachment of village common land. Ordinarily, compounding in such cases should only be allowed where the land has been leased to landless labourers or members of Scheduled Castes/Scheduled Tribes, or the land is actually being used for a public purpose of the village e.g. running a school for the villagers, or a dispensary for them.*

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<sup>2</sup>(2004) 8 SCC 733

*In many States government orders have been issued by the State Government permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money. In our opinion all such Government orders are illegal, and should be ignored.*

*42. Keeping in mind the view expressed by this Court in these and other decisions, we also direct the demolition of the unauthorized construction by or on behalf of NIMS on Khasra No. 526. The demolition should be carried out by the Jaipur Development Authority with the assistance of the State Government and the Collector of Jaipur District on or before 30<sup>th</sup> November, 2017. The Director General of Police of Rajasthan is directed to render all necessary assistance in the process of demolition. The cost of demolition and removal of rubble etc. will be at the expense of NIMS. Any pending application made by NIMS for compounding the unauthorized construction or regularizing it stands superseded in view of our decision.”*

4. It is stated that the Applicant sought information under Right to Information (RTI) Act in pursuance to which a list of encroachers has been provided to him from the office of Tahasildar, Berhampur (Bramhapur), District - Ganjam, translated copy of which has been filed as Annexure-A/1 series at page 27 to 34.
5. Affidavit dated 31.10.2022 has been filed on behalf of the Respondent No.3, State Pollution Control Board, Odisha. Along with this affidavit, an Inspection Report of an inspection carried out on 21.09.2022 has been filed. The **Observations** made during the inspection and **Conclusion** and **Recommendations** read as under:-

***Following observations are made during inspection :***

1. *Stone patching has been made around the embankment of Baula Bandha and concreted /Black topped road has also been constructed around the Adi of Water body.*
2. *No direct discharge of sewage to the Baula Bandha was observed during inspection.*
3. *Small quantities of solid wastes including plastic materials and garbage are found around the embankment of Baula Bandha.*
4. *Few quantities of used plastic bottles, algal growth are also found floating at different portions of the Water body.*
5. *Guard wall of one feet height has been constructed around the Baula Bandha (Except bathing ghats) to restrict the flow of surface runoff during rainy season.*
6. *It was also observed that due to the religious rituals and believing, people are disposing the worshipping wastes such as flowers, leaves and other solid materials in to the Baula Bandha.*
7. *Though Berhampur Municipal Corporation is removing the solid floating materials from time to time, the Corporation has to increase the frequency to reduce its impact on water pollution of the pond water.*
8. *There are four nos. of bathing Ghats constructed at the four directions of Baula Bandha.*
9. *It was apprehended from the surroundings, during rainy season surface run off might be discharged into the water body through bathing Ghats as guard wall was not constructed in those locations.*

10. *There is no provision for removal of excess water during rainy season from the water body.*

11. *Collected one no. of water sample from Baula Bandha on 21.09.2022 for analysis. The analysis result thus obtained indicates that water quality does not conform to Class B (Outdoor Bathing (Organised) with respect to Biochemical Oxygen Demand (BOD), Total Coliform (TC), MPN/100 ml and Fecal Coliform (FC), MPN/100 ml as per MoEF&CC Notification vide GSR No. 742(E) dtd.25.09.2000 for outdoor bathing.*

**CONCLUSION & RECOMMENDATIONS :**

*In view of the above following recommendations are made :*

1. *Municipal Authority shall take necessary measures to remove the solid materials including plastic bottles, Algae and other foreign particles from the surface of the water body on regular interval basis.*
  2. *There shall be provision for removal of excess water during rainy season from the Baula Bandha.*
  3. *Awareness shall be created among the local people of the surrounding areas to prevent disposal of garbage/solid wastes/ worshiping wastes into the water body.”*
6. Along with this Inspection Report, Water Analysis report has also been filed. Annexure-R-3/3 shows Dissolved Oxygen (DO) to be 11.0 mg/L whereas Biochemical Oxygen Demand (BOD) is shown as 9.0 mg/L.
7. In para 8 of the affidavit of the State Pollution Control Board, also it is stated that very high values of dissolved oxygen (11.0 mg/l) have

been observed in the analysis result which may be ascribed to eutrophic condition of the pond.

8. Counter-affidavit dated 09.11.2022 has been filed on behalf of the Respondent No.5, Collector-cum-District Magistrate, Ganjam.
9. The affidavit of the State Respondent states that necessary and effective steps shall be taken for disposal of the OPP cases bearing OPP Case No.8/2022 to 89/2022 (82 nos.) under the Orissa Public Premises (Eviction of Unauthorized Occupants) Act, 1972 at the earliest.
10. In the affidavit of the Collector & District Magistrate, Ganjam dated 09.11.2022 it has not been disputed that Baula Bandha was a tank which was used for channeling water for irrigation by the Irrigation Department but over the course of years it has lost its significance as well as existence since decades.
11. It is stated that the plots in question i.e. Plot Nos.100, 100/132, 101, 101/166, 102 in Khata No.27 relating to Baula Bandha were initially classified as 'Jalasaya' and 'Adi' spread over an area measuring Ac.5.809 but with the passage of time the land has changed its character and there is no waterbody existing at present over an area of Ac. 2.421 which has been encroached.
12. It is also stated that a new water channel was created to provide water to the agricultural fields as a result of which the Baula Bandha was no more found useful and the said tank became dry.
13. Thereafter, slum dwellers started residing there, illegally constructing their houses since more than 40 years and the entire area has now become a slum colony known as 'Panda Colony' with hundreds of families residing there.

14. It is also stated that the nature of the land over plot no.101/266 area measuring Ac. 0.075 and plot no.101/283 area measuring Ac. 0.225 Khata No.18/142 was converted to 'Kissam Gharabari-I' vide Alienation Case No.02/2003 and this land has now been allotted in favour of Bharatia Jeevan Bima Nigam, Berhampur.
15. It is further stated that the character of the Plot No.101/99 area measuring Ac.0.199 and Plot No.102/198 area measuring Ac.0.069 in Khata No.18/92, Mouza – Kalapuri has been changed vide Alienation Case No.631/1993 and the said plots are no more 'Jalasaya' and the land has been allotted to Sampadak Naveen (a weekly newspaper unit).
16. It is further stated that several encroachment cases were booked against the encroachers between the year 1982 and 1995 to safeguard the land in question but several of the encroachers approached the court of Sub-Collector, Berhampur and the Appellate Court vide order dated 22.11.1995 remanded the case with a direction to the Tahasildar, Berhampur to give an opportunity of hearing to the Appellant.
17. Thereafter, the Tahasildar, Berhampur issued notices for eviction of illegal encroachers which order was challenged by several encroachers before the Hon'ble High Court of Odisha by filing writ petition and in one such Writ Petition No. W.P.(C) 16747/2012 the Hon'ble High Court has passed the following orders on 17.09.2019 :
- “In the circumstance and in absence of positive material as to the ultimate outcome involving the L.E. case indicated herein and taking in account the fact that the petitioners enjoying interim protection of this court since Sep 2012, the court disposed the matter observing that in the event the LE case*

*indicated herein above has been disposed of in favour of the petitioners, then there may not be eviction of the petitioners provided there is no legal impediment otherwise. The court further observed in the event the L.E. case indicated herein above has not been disposed of as of now after remand order passed by the Sub-Collector, Berhampur, it may not be appropriate to evict the petitioners unless the remand L.E. Proceeding is closed.”*

18. It is stated that the aforesaid order was passed in a bunch of Writ Petitions vide W.P.(C) 16741/12, W.P.(C) 16545/12, W.P.(C) 16746/12, W.P.(C) 16742/12, W.P.(C) 16740/12, W.P.(C) 16743/12 and W.P.(C) 16744/12.
19. Thereafter, OPP cases were initiated under the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972. However, the fate of those eviction proceedings have not been disclosed in the counter-affidavit. OPP Case No.8/2022 to OPP Case No. 89/2022 (total 82 cases) have been initiated under the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972.
20. The State Pollution Control Board, Odisha has filed further affidavit dated 03.01.2023 bringing on record the Water Analysis Report which reads as under:-

*(1) “The test Results of water samples collected from the pond at Baulabandha at Kalapuri Mouza (Panda Colony near Engineering School), Tahasil : Berhampur in Ganjam district, furnished in the Test Report No.OS/366/10/2022 dated 01.10.2022 is related only to the samples submitted to the Central Laboratory for analysis vide Regional Office, Berhampur letter*

No.2905/legal/54/2022 dated 21.9.2022. The said sample has been analyzed in the Central Laboratory and the analysis report was forwarded to the RO, Berhampur vide Lt. No.18426 dtd.01.10.2022. In the analysis report under the heading "Note (i)" it is indicated that the results stated above related only to the items tested.

(2) As may be seen from the Field protocol submitted along with the Sample, by the Regional Officer, Berhampur the colour of the pond water is light green-to green. This indicates the eutrophication/ algal growth in the water body. Further, as the sample has been collected in the day time (i.e. 1.30 PM) and from the near-to-surface layer, oxygen concentration in the pond due to photosynthetic activity of the algae will be naturally more. The oxygen concentration in such water bodies during night time will be less due to absence of photosynthetic activity and consumption of oxygen by algae from the water body. This is called diurnal variation of Dissolved oxygen (DO) in an eutrophicated/ algal rich water bodies.

(3) Therefore, there is the possibility of high concentrations of DO in such polluted water bodies where BOD value maybe high.

(4) Analysis reports containing of water quality of other pond waters such as Narendra, Markanda, Indradyumna, Swetaganga and Parvati Sagar pond in Puri during January-March, 2022, where DO values are high with BOD values greater than 3.0 mg/L. Water quality Management Plan of Bindusagar pond prepared by the Board (page. 9 and 10 may be referred) where such phenomena are mentioned."

21. We have heard the learned Counsel for the parties and perused the documents on record.
22. The learned Counsel for State Respondents has referred to the judgment of the Hon'ble High Court of Odisha passed in Writ Petition (C) No. 8797 of 2004; (Tapan Kumar Das Vs. Commissioner, Cuttack Municipal Corporation & Ors.) along with other connected cases decided on 11.10.2012. The High Court gave certain directions to the effect that Revenue Divisional Commissioner (R.D.C.) (C.D.) Cuttack, shall form a Committee and this Committee shall deal with the protection, preservation and conservation of water bodies in the city of Cuttack and take decision accordingly. It was also provided that applications for change of classification/kisam of land from 'Jalasaya' to 'Homestead' shall be processed through the Tehsildar, Sadar, Cuttack, to the Collector for appropriate orders and the decision of the Collector shall then be placed before the Committee for approval and if the Committee is of the opinion that the lands which have lost their characteristic as 'Jalasaya' and those which are actually not 'Jalasaya' or 'Swampy' lands but have been recorded as 'Jalasaya', change of classification of such lands may be allowed. The Division Bench of the High Court further directed that it will be open for the State Government to adopt the directions given in respect of Cuttack city for other cities in the State. Paras 14 and 15 of the High Court judgment has held as under:-

*“14. Considering the facts and circumstances of the case, for preservation and conservation of tanks/water bodies in Cuttack City, and to deal with such tanks/water bodies, we direct as follows:*

- (1) *The State Govt. shall act upon the report dated 31.08.2007 submitted by the R.D.C (C.D.) Cuttack, and the affidavit dated 18.05.2020 filed by the Principal Secretary to Govt. H&U.D. Department and shall ensure that the steps indicated therein are taken within a period of two years from today.*
- (2) *The R.D.C. (C.D.) Cuttack, under his chairmanship shall form a Committee not exceeding seven members including the Vice Chairman, C.D.A., Municipal Commissioner, CMC, Cuttack, and an Environmentalist of the State Pollution Control Board, Odisha. Needless to say, the other members of the Committee shall be nominated by the R.D.C. The Committee shall deal with the protection, preservation and conservation of water-bodies in the city and shall take decisions accordingly.*
- (3) *The applications for change of classification/kissam of lands from Jalasaya to homestead shall be processed through the Tahasildar, Sadar, Cuttack, to the Collector for appropriate orders. The decision of the Collector shall be placed before the Committee as constituted above for approval. Only after approval of the Committee, change of classification/kissam of the land shall be allowed. The Committee shall record the reasons for allowing change of classification/kissam of such lands. However, if the Committee is of the opinion that the lands, which have lost their character as Jalasaya, and those, which are actually not Jalasayas or swampy lands but have been recorded as Jalasaya, change of classification of such lands may be allowed. This shall be effective from the date of the judgment.*
- (4) *The Committee shall also make enquiry, if it is so necessary, to find out whether classification of the lands recorded as Jalasaya has been changed by*

*orders of the Tahasildar during operation of the order of status quo passed by this Court on 08.04.2005 in O.J.C. No. 6721/1999. In case it is found that the classification has been changed during continuance of the order of status quo, the same shall be treated as non est in the eye of law.*

*15. For the aforesaid purpose, Cuttack city shall be construed to be the old Cuttack City comprising the areas shown in the satellite maps of the ORSAC of 1990 and 2006, which have been annexed to the Report of the R.D.C. dated 31.08.2007. It will be open to the State Govt. to adopt the directions given in respect of Cuttack City in the foregoing paragraph for other cities in the State.”*

23. No doubt, certain lands over a period of time may have lost their character as ‘Jalasaya’ and the ‘Jalasaya’ itself may have been degraded with the passage of time but that does not by itself absolve the moral obligation of the State Respondents to restore the Baula Bandha waterbody to its original pristine glory. If certain lands have been permanently degraded and permanent constructions have been made thereon, land of an equivalent area either nearby or as far as possible close to the original Baula Bandha must be identified by the State Respondents and converted into a waterbody. Such directions have earlier been given by the Tribunal in the Original Application No. **106/2021/EZ (Sisir Kumar Panda Vs. Union of India & Ors)**.

24. Now, coming to the existing waterbody or whatever remains of the original waterbody Baula Bandha, the Inspection Report shows that while there is no direct discharge of sewage into the Baula Bandha, small quantities of solid waste including plastic materials and garbage were found around the embankment of Baula Bandha.

Plastic bottles and Algal growth were found floating at different parts of the said waterbody. During religious rituals people are disposing the worship wastes such as flowers, leaves and other solid materials into the Baula Bandha.

25. The Berhampur Municipal Corporation is taking steps to remove the solid floating materials from the waterbody from time to time. There are four bathing ghats constructed at four points of the Baula Bandha. It was apprehended from the sight of the surrounding area that during rainy season surface runoff might be discharged into the waterbody through the bathing ghats as guard wall was not constructed at these locations. There is no provision for removal of excess water. Stone patching has been made around the embankment of Baula Bandha and concreted/black topped road has been constructed around the 'Adi' of the waterbody.

26. We, therefore, dispose of the Original Application No. **114/2022/EZ** with the directions to the Respondent No.5, Collector-cum-District Magistrate, Ganjam as under :-

- i) Steps shall be taken by the Respondent to protect the remaining area of Baula Bandha with proper railing/fencing or wall or guard wall of appropriate height to ensure that there are no further encroachments into the waterbody.
- ii) The embankment of the Baula Bandha shall be protected by planting grass and other shrubs and creating an eco-friendly park all around which can be used by the general public for recreation.

- iii) The eco-friendly embankment shall be planted with local shrubs and bushes or even ornamental plants specifically designed to protect the embankment from degradation and erosion.
- iv) The original area of Baula Bandha is stated to be 5.809 decimal out of which an area of 2.421 acres is stated to have lost its character as such with the passage of time and therefore encroached upon. This means that half the total area of the original Baula Bandha has been completely destroyed.
- v) The Respondent No.5 shall therefore identify a site as far as possible close to Baula Bandha and if that is not possible, in some other area nearby having an area of Ac.2.421 which shall be developed as a waterbody in accordance with the directions already given hereinabove in respect of Baula Bandha.
- vi) The Respondent No.5 shall ensure that the solid and liquid waste as well as dry waste and drains from the encroached constructions do not pour into the Baula Bandha and steps in this regard shall be undertaken with utmost seriousness by the Respondent by providing appropriate drainage system away from the Baula Bandha including the new site to be developed as a waterbody having an area of Ac.2.421.
- vii) The Odisha State Pollution Control Board shall take water samples from the existing Baula Bandha every six months including the new waterbody to be created as directed

hereinabove and if the water parameters are not in conformity with the parameters prescribed by the Pollution Control Board or Ministry of Environment, Forests and Climate Change (MoEF&CC), appropriate and stringent directions in this regard shall be given by State Pollution Control Board to the concerned authority and ensure compliance of the directions.

- viii) The directions given hereinabove, shall be complied with by the State Respondents by **31.12.2023** and affidavit of compliance shall be filed by the District Magistrate, Ganjam, before the Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata by **14.01.2024**.

27. There shall be no order as to costs.

.....  
**B. Amit Sthalekar, JM**

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**Prof. A. Senthil Vel, EM**

March 22, 2023  
Original Application No.114/2022/EZ  
SKB

NGT

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**Original Application No. 82/2015/EZ**

**BIRANCHI NARAYAN MAHAPATRA  
VS  
STATE OF ODISHA & ORS**

**CORAM:** Hon'ble Mr. Justice S.P.Wangdi, Judicial Member  
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

**PRESENT:** Applicant : Mr. Biranchi Narayan Mahapatra, In person  
Respondent No. 1 & 2,4 & 6 : Mr. S.P.Mishra, advocate General  
Mr. Pravat KumarMuduli, Advocate  
Respondent No. 3 : Mrs. Papiya Banerjee Bihani, Advocate  
Respondent No. 4 : None  
Respondent No. 5 : Mr. Prasanta Kr. Sen, Advocate  
Mr. Ramesh Shaw, Advocate

Date & Remarks	Orders of the Tribunal
<p><b>Item No. 1</b> 24<sup>th</sup> August, 2017.</p>	<p>This OA had been preferred by the applicant being anxious of the survival of the natural ponds situated in the Berhampur Municipal Area as it was alleged that there were large scale encroachments of the water bodies and its embankments by unauthorised persons.</p> <p>Notices having been issued, the State respondents were directed to file status report. The details of the encroachers, their names and addresses were also sought for which the State authorities furnished for our consideration. Later it was revealed that there were altogether 42 ponds which were encroached upon. The State Respondents expressed their difficulty in evicting all the encroachers at a short notice as the number of</p>

the encroachers was quite large and in order to accomplish the task, they would require a reasonable period of time. The onset of the monsoon was cited as another reason as a hindrance in the early completion of the work, as would be apparent from our order dated 8.9.2016. It had been expressed that as the rainy season was likely to continue till the middle of October, 2016, it would be possible to complete the evictions only after that. As permitted by us steps were thus taken gradually by the State and batches of encroachers were evicted but the completion of the process was delayed as some of the encroachers had approached the Hon'ble Orissa High Court against the State's action and had obtained orders of stay.

Upon hearing the Ld. Counsel for the State we could gather that the anxiety of the Hon'ble High Court was on the denial of opportunity of hearing to the encroachers by the State before the action for the eviction was taken against them. There being a possibility that the Hon'ble High Court may not have been informed of the present proceedings, on 15<sup>th</sup> March, 2017, the following order was passed :-

“ Affidavit filed by Mr. Ram Chandra Pasupalak, Ld. advocate appearing on behalf of the respondent No. 5, the Municipal Commissioner, Berhampur Municipal Corporation, in compliance of our order dated 24.1.2017,

is ordered to be taken on record.

We are, however, not satisfied with it as it does not fully comply with our direction. In the affidavit, it has been informed that the encroachers of some of the ponds have approached the Hon'ble Odisha High Court and obtained orders of stay in a number of writ petitions by which the respondents have been directed not to proceed with the eviction proceedings. On a perusal of the affidavit, we have noticed that the writ petitions were filed on 24.1.2017 i.e. on the very same day our aforesaid order was passed. It may be relevant to note that our order dated 24.1.2017 is one in continuation of the orders passed earlier from time to time commencing from 8.9.2015.

“ ..... The matter before us involves violation of environmental laws inasmuch as important water bodies under Berhampur Municipal Corporation in the district of Ganjam are being encroached upon by a number of persons jeopardising their very existence apart from causing pollution thereto. It is, therefore, needless to observe that the orders had been passed within the confines of the jurisdiction of this Tribunal which the Municipal Corporation was expected to comply by following the due process of law.

We also have noted an order bearing No. 732/Rev. Dated 08.03.2017 issued by the Collector, Ganjam which reads as follows :-

**ORDER**

To comply the order of the Hon'ble National Green Tribunal in OA No. 82/2015/EZ, the following committee is hereby constituted under the Chairmanship of Addl. District Magistrate (Revenue), Ganjam to examine the orders of the Hon'ble Green Tribunal, Eastern

Zone Bench, Kolkata.

1. Addl. District Magistrate (Revenue)  
-Chairman
2. Commissioner, Berhampur Municipal Corporation  
- Member
3. Secretary, Berhampur Development Authority  
- Member
4. Tahasildar, Berhampur  
- Member
5. Executive Engineer Irrigation, Berhampur -Member
6. Regional Officer, State Pollution Control Board  
- Member

The Committee will visit different sites in question and examine the litigation pending before the Hon'ble High Court of Odisha as reported by the Berhampur municipal Corporation to carry out the orders of the Hon'ble National Green Tribunal.

Further, the committee shall submit their views after examining at ground level as well as the cases pending before the Hon'ble High Court to the undersigned for further steps to be taken in the matter.

**COLLECTOR, GANJAM “**

As would appear from the above, by the aforesaid order a committee has been curiously constituted to “examine the orders of Hon'ble national Green Tribunal, Eastern Zone Bench, Kolkata” and the committee is headed by one Addl. District Magistrate. The order further goes on to state that the committee will visit different sites and examine the litigations pending before

the Hon'ble High Court of Odisha as reported by the Berhampur Municipal Corporation to carry out the orders of the Hon'ble National Green Tribunal.

From the facts and circumstances indicated in the affidavit and the order of the District Magistrate, Ganjam, things do not appear to be right. We have every reason to believe that the petitioners have not placed the facts correctly before the Hon'ble High Court and has been misled in passing the order of stay said to have been issued by it.

The subject matter of the writ petition, as would appear from the cause title of the writ petition is as follows :-

**“ In the matter of –**

**An application challenging the notice dated 31.12.2016 issued by the Opposite parties to vacate the Government land within 30 days failing which they will be evicted. The said notice issued having no authority under law and is violation of principle of natural justice.”**

Hon'ble High Court, perhaps, may not have been informed that the order of eviction of the encroachers of the water body (and not government land) emanated from our orders issued in exercise of our jurisdiction under the N.G.T. Act, 2010. However, in due deference and in the interest of maintaining judicial propriety we desist ourselves from making any further observations on this aspect except to direct the Municipal Commissioner, Berhampur Municipal Corporation, Respondent No. 5, to complete the task which have been assigned by our orders. Failure to do so shall invite serious coercive

measures in accordance with law.

**List on 24.4.2017** on which date the respondent No. 5 shall file an affidavit on the compliance of our order to remove all the encroachers from the “water body”.

We also direct the respondent No. 5 to inform the Hon’ble High Court of Odisha of the correct position. “

On the next date, i.e., 24.4.2017, when the same circumstances was found to be persisting, further order was passed giving clarity to the nature of the present proceedings which reads as follows :-

“Mr. Sushanta Kumar Mishra, Municipal Commissioner, Berhampur Municipal Corporation, is present before us in pursuance of our order dated 15.03.2017. He submits that all encroachers could not be evicted from the water bodies in view of an order passed by the Orissa High Court. He tenders unconditional apology for the non-compliance although, as per him, he is also keen to protect the water body in question. As he has also stated various other facts which, in our view, is germane for determination of this matter, we direct him to file an affidavit on the facts relevant to the period of his tenure as the Commissioner of the Berhampur Municipal Corporation, since it is stated that he is now under an order of transfer.

Mr. Basanta Kumar Sen, Id. Advocate by filing vakalatnama for Respondent No.5, i.e., the Municipal Commissioner, Berhampur Municipal Corporation, seeks for leave to file a copy of the order of the High Court dated 18.04.2017 passed by the Hon’ble High Court in

Writ Petition (C) No. 1383/2017 whereby certain directions have been issued.

Since this order is contrary to what we had already directed earlier and also amply clarified vide our order dated 15.03.2017, we direct the State Respondents to comply with the directions issued by us strictly within three months from hence and not a day later. In the event of any of the party being dissatisfied with these directions, they are at liberty to take appropriate relief before the Hon'ble Supreme Court. Compliance report shall be filed by the Municipal Commissioner, Berhampur Municipal Corporation.

In the context of the above it is of relevance to observe that this matter has been pending before us since 2015 and in the interregnum various directions issued by us in the light of the affidavits filed by the respondents ultimately culminating in the orders dated 8<sup>th</sup> September, 2016, 25<sup>th</sup> October 2016 and 24<sup>th</sup> January, 2017. For convenience we may reproduce those below being relevant:-

Order dated 08.09.2016

*"Mr. Rama Chandra Pasupalak, Ld. Advocate who appears for Respondent No. 5, prays for leave to place on record the status on the action taken as directed vide order dated 2.08.2016.*

*Prayer is allowed.*

*Let action taken report be taken on record.*

*Mr. Mahapatra, the applicant appearing in person submits that he has just received the copy of the action taken report and also prays that the supplementary affidavit filed by him on 29.8.2016 giving details of the persons who have encroached*

the tank embankments be taken on record. It is stated that copies have been handed over to the other side.

We have fixed the next date on 25.10.2016 considering the averments made by the Respondent No. 5, viz., Municipal Commissioner, Berhampur Municipal Corporation, in paragraph 4 of the affidavit filed on 8.9.2016 and taken on record today where it has been categorically stated that for various reasons the direction has not yet been complied with "but as soon as the rainy season is over all the encroachments on the embankments of tanks will be evicted."

Since, as per Mr. Pravat Kumar Muduli, Addl. Standing Counsel and the other counsel appearing before us submit that rainy season is likely to continue upto middle of October, we have fixed the matter on 25.10.2016. By that date, we expect that, as stated by them, all encroachments shall be removed by the Berhampur Municipal Corporation.

An affidavit of compliance shall be filed by the respondent No. 5 on or before the next date with copies on the others.

Order dated 25.10.16

" Status report has been filed on behalf of the Municipal Commissioner, Brahmapur Municipal Corporation, Respondent No. 5, by Mr. R.C.Pasupalak, Ld. Advocate, wherein it is stated that eviction of illegal encroachers on the embankment of the water bodies has just been commenced and about 50 to 60 of them have been evicted from Dhoba Bandha Huda near 1<sup>st</sup> Gate, Aska Road. Similarly, it is stated, all encroachments from Aina Bandha Huda have been evicted 15 days ago and that although action

has already been initiated to evict the encroachments from Agula Bandha Huda, Gosaninuagaon, it could not be completed due to want of adequate police force. It is stated that they would require 3 to 4 months to complete the entire exercise.

Considering the enormity of the task, we grant three months time to the Municipal Commissioner to complete the work.

Let a compliance report be filed on the next date."

Order dated 24.01.2017

"Affidavit filed today by Mr. Ram Chandra Pashupalak, Ld. Advocate for the respondent No. 5, Municipal Commissioner, Berhampur Municipal Corporation is ordered to be taken on record.

Further time is prayed for by Mr. Pasupalak to take complete eviction process of encroachers from the area in question.

We have observed that the respondent No. 5 has not submitted a detailed report on actions taken thus far. We accordingly direct them to do so by giving details actions taken on eviction, pond-wise, from where the encroachers have been evicted and the names of the encroachers etc. Let such detailed affidavit be filed on or before 15<sup>th</sup> March 2017. In the meanwhile, they shall ensure that eviction process is complete.

We also direct the District Magistrate, Ganjam district to extend active cooperation to the respondent No. 5, Berhampur Municipal

*Corporation and submit a report on or before the next date. “*

It would be evident from the aforesaid orders that action for removal of encroachments had commenced but, considering the enormity of the task and the weather conditions, we had granted three months time to complete the work. However, on 24<sup>th</sup> January, 2017 when the matter came up before us, it transpired that the work had still not been completed and, in fact, the Municipal Commissioner had failed to submit action taken report. Thus a detailed report was sought from him on the action taken by the Municipality pondwise to be filed before 15<sup>th</sup> March, 2017, i.e., after almost two months.

What transpired in the interregnum has been recorded in our order dated 15<sup>th</sup> March, 2017 and, in our considered opinion, those clearly reflect gross abuse of the process of the court and attempt on the part of the Municipal Commissioner to scuttle the present proceedings in connivance and collusion of the encroachers. For the moment, we desist ourselves from passing an order which we reserve to be dealt with when finally disposing of this case.

The State Respondents, i.e., Respondents No. 1 & 2, who is represented by Mr. Muduli, are directed to file affidavit informing us as to why urgent measures should not be taken by them for amelioration of the encroachers in the light of the rehabilitation scheme of the State Government. The measure shall be taken by the State urgently to assist the Berhampur Municipal

Corporation to evict the encroachers within the time frame as directed by us.

Since the concerned Department under the Govt. of Odisha dealing with the municipality and Municipal Corporation is the Housing and Urban Development Department, Govt. of Odisha, we direct that the Commissioner-cum-Secretary, Housing and Urban Development Department, be also impleaded as Respondent No.6.

As Mr. Pravat Kumar Muduli, Id. Addl. Govt. Advocate is present before us on behalf of the other State Respondents, notice is dispensed with. He shall take appropriate steps to file appropriate affidavit before the next date. He shall also take necessary steps to place on records before the concerned bench of the Hon'ble Orissa High Court of the pendency of the proceedings within the confines of our jurisdiction since 2015 and the directions issued from time to time.

**List on 24.08.2017 for submission of compliance report.”**

By the aforesaid orders the State respondents were directed to file an appropriate affidavit on the action taken by them.

Today, Mr. S.P.Mishra, Ld. Advocate General, State of Odisha, appearing with Mr. P.K.Muduli, Addl. Govt. Advocate, by placing an affidavit on behalf of the newly impleaded respondent No. 6, submits that action for removing all encroachers from the embankment of

the ponds have been initiated but some more time will be required for completion as the State Govt. has identified the encroachers as beneficiaries under the Rajiv Awas Yojna, a scheme for housing for people belonging to the economically weaker section, framed by the Government of India in the year 2010. Under this scheme, the Government is said to have approved construction of 5193 dwelling units within the limit of Berhampur Municipal Corporation against which a sum of Rs. 98.07 crores had been sanctioned thus far and that these houses were expected to be completed within three months after which, allotments would be made to the identified beneficiaries. For the sake of convenience and to avoid any confusion, the relevant portion of the affidavit filed on behalf of the respondent No. 6 is reproduced below :

“That, it is submitted that it has been reported by the Respondent No.5-Corporation that there were 920 encroachers along the embankments of the following 11 water bodies within the Berhampur Municipal Corporation limits.

- 1) Ankuli Gudia Bandha
- 2) Dhoba Bandha Huda
- 3) Purnabasi Harijan Colony
- 4) Phulla Sundari Huda
- 5) Nelia Bandha Huda
- 6) Gauda Bandha Huda
- 7) Dhoba Bandha Huda Near Radhakanta Street
- 8) Mukteswara Bandha Huda
- 9) Balajipentha Huda
- 10) Salia Bandha Huda

## 11) Bandha Huda Street

It has been reported that the encroachers are mostly people belonging to the Economically Weaker Sections. Most of them have been enumerated as beneficiaries for allotment of Dwelling Units under Rajiv Awas Yojna, a Scheme framed by the Government of India in the year 2010. The Housing & Urban Development Department has approved construction of 5,193 Dwelling Units within the limits of Berhampur Municipal Corporation under Rajiv Awas Yojna (RAY) in the year 2015. An amount of Rs. 98.07 Crores has so far been sanctioned and released by the State Government in Housing & Urban Development Department for execution of this project by the Respondent no.5- Berhampur Municipal Corporation. As reported, the Respondent no.5-Corporation has been constructing these houses through some Central Public Sector Undertakings and so far 2,253 Dwelling Units are in the final stage of construction. It has been further reported by the Respondent No.5-Corporation that the Houses shall be completed within the next few months. It has also been reported that the Respondent No.5-Corporation have already completed about 704 Dwelling Units which will be allotted to the identified beneficiaries shortly. Out of these 704 beneficiaries, more than 100 beneficiaries are currently dwelling along the side of the embankments of some of the above mentioned water bodies. They are going to be shifted to the respective RAY Project sites. Respondent No.5-Corporation has also reported that 155 out of the 920 encroachers have already been evicted previously.

The Policy for Housing for All in Urban Areas, Odisha, 2015 stipulates that all residents of urban areas in Odisha shall have access to a range of housing options within their affordability limit. The basic objective of this Policy is to create a comprehensive, holistic policy framework to address all aspects of housing to the urban poor including slum rehabilitation and redevelopment. The said Policy has made it mandatory to develop Transit Housing for the urban poor in the informal settlements, if

they are required to be evicted, in order to protect their right to shelter. It would be, therefore, necessary to relocate the people residing in slums along the embankments of water bodies in accordance with the above policy guidelines, since they are required to be evicted. The construction of transit accommodation requires identification of suitable land free from encumbrances and litigation, preparation of DPR and floating of tender, selection of executants, construction of civic amenities etc. This process requires at least six months to one year time. Since, the houses under Rajiv Awas Yojna within the limits of Respondent No.5-Corporation are likely to be completed shortly; it will not be useful to contemplate construction of transit space/accommodations for the people living along the embankments of the water bodies.”

In view of the facts stated above, it has been prayed that the State respondents may be granted reasonable time for completion of the entire process of eviction and to comply with the orders of the Tribunal which according to them is expected to take about six months to one year.

In view of the facts and circumstances alluded to above, we find that as all necessary actions have been taken by the State Government and the Respondent No. 5 to address the anxiety expressed by the applicant in the OA, no useful purpose would be served in keeping the matter pending any further.

We accordingly dispose of this OA granting the prayer made on behalf of the State which, in our view, appears to be reasonable. They shall complete the

entire process of removal of encroachers from the ponds and its embankments and their rehabilitation within one year from hence.

State respondents, particularly, the Housing and Urban Development Department, respondent No. 6 and the Berhampur Municipal corporation, respondent No. 5, shall file compliance reports on 23.8.2018 in the Registry.

No order as to costs.

.....  
Justice S.P.Wangdi, JM  
24-8-2017

.....  
Prof. (Dr.) P. C. Mishra, EM  
24-8-2017





**BEFORE THE NATIONAL GREEN TRIBUNAL, ESTERN  
ZONE BENCH: KOLKATA  
ORIGINAL APPLICATION NO. 114/2022/EZ**

IN THE MATTER OF:

Sirin Tammana& others .....Applicants

-Versus-

State of Odisha& others .....Respondents

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Aswini Kumar Mahapatra  
M.A. : L.B.  
NOTARY, BIRBHAMPUR (GANJAM)  
Sl. No. A3299 Time 12:20 PM  
Date 09-11-2022 Place Bhubaneswar

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH: KOLKATA  
ORIGINAL APPLICATION NO. 114/2022**



**IN THE MATTER OF:**

Sirin Tammana & others ..... Applicants

-Versus-

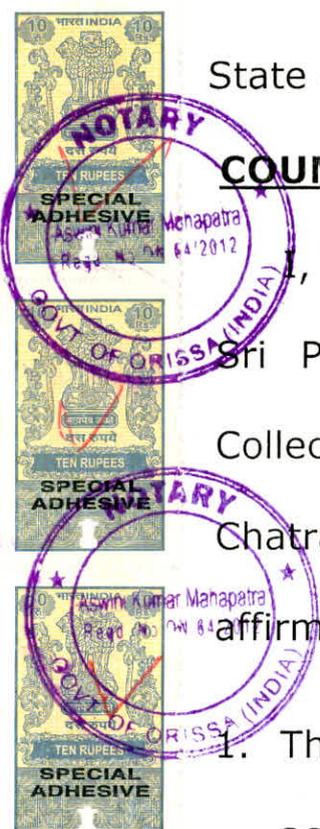
State of Odisha & others ..... Respondents

**COUNTER AFFIDAVIT BY THE RESPONDENT NO. 05**

I, Sri Dibya Jyoti Parida, aged about 34 years, Son of Sri Prasanna Kumar Parida, at present working as Collector & District Magistrate, Ganjam, At/Po. Chatrapur, Dist. Ganjam, Odisha, do hereby solemnly affirm and state as follows:-

1. That, I am the Respondent No. 05 in the accompanying Original Application and have been duly authorised to file this Affidavit for and on behalf of Respondent Nos. 2 & 4.

I have gone through the Original Application as well as the documents annexed thereto and understood



*Dibya Jyoti Parida*

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the contents thereof. I am acquainted with the facts of this case on the basis of official records.

2. That I have gone through the averments made in the Original Application and after understanding the contents of the present Application, the affidavit is being filed by me.
3. That, it is to mentioned here that the alleged Baula Bandha was a tank which was used for channelling the water for irrigation by the Irrigation Department in earlier times which has lost its significance as well as existence since decades and by virtue of the developments over the land in course of the time, the claim of the applicants is absolutely baseless and should be dismissed with heavy cost as a time barred and personal interest litigation.
4. That the Applicant has filed this Original Application partly challenging the conversion of the land for the purpose of construction of the structures over the

Dilip - Jyoti Parida

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plot No. 100, 100/132, 101, 101/166, 102 in Khata No. 27 relating to Baula Bandha within Berhampur Municipal Corporation and for a direction to the State Government for removal of the illegal structure/obstruction caused by certain encroachers in the premises of the Baula Bandha and its embankment at Kalapuri Mouza which is recorded as Jalasaya.

5. That at the outset, it is humbly submitted that the contention of the Applicant that the State Authorities do not have the power to change the kissam of land from Jalasaya to any other kissam, it is humbly submitted that as per the judgment of the Hon'ble High Court of Orissa, in the case of Tapan Das Vrs State of Odisha in it has been categorically held that if a land classified as 'Jalasaya' has lost its original characteristics, then the classification of the land can be changed. The related portion of the order dated

*Dibya Jyoti Parida*

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11.10.2012 passed in WP(c) 8797/2004 in quoted hereunder:

" (1) The State Govt. shall act upon the report dated 31.08.2007 submitted by the R.D.C. (C.D.), Cuttack and the affidavit dated 18.5.2010 filed by the Principal Secretary to Govt., H. & U.D. Department, and shall ensure that the steps indicated therein are taken within a period of two years from today.

(2) The R.D.C. (C.D.), Cuttack, under his chairmanship shall form a Committee not exceeding seven members including the Vice-Chairman, C.D.A, Municipal Commissioner, CMC, Cuttack, and an Environmentalist of the State Pollution Control Board, Odisha. Needless to say, the other members of the Committee shall be nominated by the R.D.C. The Committee shall deal with the protection, preservation and conservation of water-bodies in the city and shall take decisions accordingly.

(3) The applications for change of classification/kissam of lands from Jalasaya to homestead shall be processed through the Tahasildar, Sadar, Cuttack, to the Collector for appropriate orders. The decision of the Collector shall be placed before the Committee as constituted above for approval . Only after approval of the Committee, change of classification/kissam of the land shall be allowed. The Committee shall record the reasons for allowing change of classification/ kissam of such lands. However, if the Committee is of the opinion that the lands, which

*Dibya - Jyoti Parisa*

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have lost their character as Jalasaya, and those, which are actually not Jalasayas or swampy lands but have been recorded as Jalasaya, change of classification of such lands may be allowed. This shall be effective from the date of judgment."

6. That, in reply to the averments made in Paragraphs - 1 to 3 of the Original Application, it is submitted that there is no violation of any statutory principle nor any environmental hazards in the instant case. The Applicants have not brought to the notice of this Hon'ble Tribunal the real facts and have suppressed materials to hoodwink the process of this Tribunal and abuse the process of Court and law. The Applicants have approached this Hon'ble Tribunal with unclean hands and therefore, they are not entitled for any relief in the original application. The answering deponent begs to submit the facts as follows:-

(a) It is stated that the plots in question i.e.

PlotNo. 100, 100/132, 101, 101/166, 102

*Dilmi Jyoti Panisa*

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in Khata No. 27 relating to Baula Bandha were initially classified as 'Jalasaya' and 'Adi' and was spread over an area measuring Ac.5.809. However, with the passage of time, the nature and character of the land underwent a change and there was no water body over total area measuring Ac. 2.421 of the said plots which have been encroached at present.

- (b) It is stated that 'Baula Bandha', a tank was spread over various plots including Plot Nos. 100, 100/132, 101, 101/166, 102 in Khata No. 27 of Mouza Kalapuri admeasured Ac. 5.809 dec. The said tank was used by the Department of Irrigation for channelling the water to the agricultural fields during the year 1950s. But subsequently, a new water channel was

Dibya Tyoti Parida

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created to provide water to the agricultural fields. In view of creation of the new water channel, the aforesaid Baula Bandha was no more useful and the said tank became dry in most part of it.

(c) The present land over which the Baula Bandha is existing, situated in the periphery of Berhampur Town as it was then, and by efflux of time, some portion of the said water body had lost its nature and character. Thereafter, the slum dwellers started residing there by illegally constructing their house since more than 40 years and the area developed into a slum in the name of Panda Colony and more than hundreds of families started residing there.

(d) That the contention of the applicant that public service construction has been made

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over the Water body is incorrect as because the construction have been made exclusively over the Patita kissam land which was changed its classification from Jalasaya to Patita by the authorities after following due process of law. The construction is made over in Plot No. 101/266 area measuring Ac. 0.075 and Plot No 101/283 area measuring Ac. 0.225 khata No. 18/142, Kissam Gharabari I in favour of Bharatia Jeevan Bima Nigam, Berhampur in pursuance to the order passed in Alienation Case no. 02/2003. Similarly plot No. 101/99 Area measuring Ac. 0.199 and plot No. 102/198 Area measuring Ac. 0.069, Kissam Patita in Khata No. 18/92, Mouza Kalapuri for Sampadak Naveen (weekly newspaper

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unit) in pursuance to the order passed in Alienation Case no. 631/1993.

The copies of the RoR of Bharatia Jeevan Bima Nigam (LIC office), Berhampur and Sampadak Naveen are annexed herewith as **ANNEXURE - A/5 & B/5 respectively.**

7. That in reply to the averments made in Paragraph 4 to Para 7 & Para 10 of the Original Application are not correct and therefore, the same are denied. The averment that, the applicants had approached the Revenue Divisional Commissioner, Southern Division, Berhampur, Ganjam in the year 2022 and thereafter several times till 14.06.2022 for removal of the illegal construction which have been made on the premises of the Baula Bandha and that State Authorities are not taking any action are incorrect and denied.

*Dilip Kumar Jyoti Panida*

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It is to be mentioned that 66 No Encroachment Cases were registered against the illegal encroachers by the Tahasildar, Berhampur since year 1982.

Land Schedule as per RoR

Mouza	Khata No	Plot No	Area	Kissam
			in Ac.	
Kalapuri	27	100	01.191	Jalasya II
	(Rakhita)	100/132	0.020	Jalasya II
		101	0.911	Jalasya II
		101/166	0.073	Jalasya II
		102	0.613	Adi

(a) At present the water body is confined to a limited area over plot No. 100 and 101 in khata no. 27 of Mouza kalapuri.

(b) Several Encroachment cases were booked against the encroachers mostly between the year 1982 and 1995. The Tahasildar, Berhampur subsequently issued eviction notice to the encroachers to preserve and safe-guard the Jalasya Kissam land. Challenging the issuing of the said notices, several encroachers preferred

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appeal in the Appellate court i.e. in the Court of Sub-Collector, Berhampur. The Appellate Court vide order dated 22.11.1995 remanded the case with a direction to the Tahasildar, Berhampur to consider the case with following observations.

- (i) An opportunity of hearing be given to the appellants.
- (ii) Landless status of the appellants is to be looked into.
- (iii) Holding taxes if any paid by the appellants to Berhampur Municipality to be seen.
- (iv) Adverse possession including the continuous undisputed possession of more than 30 years is to be seen.
- (v) Whether the encroached land has been kept reserved for any development purpose be also looked into.

A copy of the order dated 22.11.1995 is enclosed herewith as **ANNEXURE- C/5**

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- (c) Thereafter, the Tahsildar, Berhampur issued notices and directed the encroachers for eviction of the illegal encroachment from the highly

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objectionable Govt. land within a period of 15 days.

(d) Challenging the direction of the Tahildar, Berhampur, several encroachers approached Hon'ble High Court of the Orissa by filling Writ Petitions in the year 2012 for settlement of the land under the LEC cases (encroachment cases) and with a prayer to set aside the impugned notice of eviction/ demolition of Tahasildar, Berhampur and for recording of the lands in their name.

(e) The Hon'ble High Court of Orissa, after hearing both sides passed an interim order staying the eviction of the encroachers untill further order. Thereafter the Hon'ble High Court of Orissa vide its order dated 17.09.2019 passed in WP (c) No. 16747/2012 has directed as follows:

"In the circumstance and in absence of positive material as to the ultimate outcome involving the L.E. case indicated herein and taking in account the fact that the petitioners enjoying interim protection of this court since Sep 2012, the court disposed the matter observing that in the event the LE case indicated herein above has

Dilip Jyoti Parida

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been disposed of in favour of the petitioners, then there may not be eviction of the petitioners provided there is no legal impediment otherwise. The court further observed in the event the L.E. case indicated herein above has not been disposed of as of now after remand order passed by the Sub-Collector, Berhampur, it may not be appropriate to evict the petitioners unless the remand L.E. Proceeding is closed."

The aforesaid order was passed in a batch of other cases vide WP(c) 16741/12, WP(c) 16545/12, WP(c) 16746/12, WP(c) 16742/12, WP(c) WP(c) 16740/12, WP(c) 16743/12, WP(c) 16744/12 filed by several encroachers. Copy of the Judgment of Hon'ble High court of Odisha in WP (c) No. 16747/12 is annexed here with as **ANNEXURE- D/5**

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- i) Thereafter by recording that the encroached land is a land of highly objectionable in nature being recorded in Rakhita Khata with Kissam Jalsaya and Adi, the LE cases (encroachment cases) were disposed off by the Tahasildar, Berhampur in his order dated 18.01.2020 as construction made over the plot recorded in Jalsaya/Adi in not sustainable nor can be considered for

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✓ Dikmy Jyeta Punisa

settlement and steps were taken to initiate OPP cases against the encroachers under "the Orissa Public Premises (Eviction Of Unauthorised Occupants) Act, 1972" for disposal after giving reasonable opportunity to the unauthorised occupants. The aforesaid order was passed by the Tahasildar in accordance to prevalent rules as laid down by the Hon'ble Supreme court of India in the case of Hinch Lal Tiwari vs Kamala Devi And Ors on 25 July, 2001 in Civil Appeal case No. 4787 of 2001, the relevant portion of it is quoted hereunder-

"It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which

✓ Dhanraj Jyoti Panida

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would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites. For the aforementioned reasons, we set aside the order of the High Court, restore the order of the Additional Collector dated 25-2-1999 confirmed by the Commissioner on 12-3-1999. Consequently, Respondents 1 to 10 shall vacate the land, which was allotted to them, within six months from today. They will, however, be permitted to take away the material of the houses which they have constructed on the said land. If Respondents 1 to 10 do not vacate the land within the said period the official respondents i.e. Respondents 11 to 13 shall demolish the construction and get possession of the said land in accordance with law. The State including Respondents 11 to 13 shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the best interest of the villagers. Further it will also help in maintaining ecological balance and

✓ Diksha Jyoti Parida

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protecting the environment in regard to which this Court has repeatedly expressed its concern. Such measures must begin at the grass-root level if they were to become the nation's pride."

Aforesaid order was passed in a batch of other LE cases filed by the encroachers.

Copy of the order dated 15.01.2020 of the Tahasildar, Berhampur for disposal of the LEC cases as **ANNEXURE - E/5**

9. That, the averments made in Paragraph No. 8 & Paragraph No. 9 of the Original Application are quotations of different decisions laid down by the Hon'ble Apex Court. The deponent reserves the right to give appropriate reply at the time of hearing.

10. That in reply to Paragraphs 11, it is humbly submitted that the assertion that the State Officials are not showing their interest for the protection of the common water bodies and not taking steps and measures for protection of the water body by taking

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Dilma Tyoti Parida

different plea is misconceived, disputed and denied specifically. It is relevant to state here that a case of similar nature pending before this Hon'ble Tribunal vide O. A. No 82/2015 (filed by Biranchi Narayan Mahapatra Vrs State of Odisha & others) where in prayer was made to remove illegal encroachers from the 43 Nos of Bandhas (water Body) of jurisdiction of Berhampur town. several order have been passed by this Hon'ble Tribunal which has already been duly compiled with by the present deponent by taking effective steps by removing the unauthorized encroachers from the site in question. The allegation that due to illegal filling of the pond and raising of illegal structures under the umbrella of the State Officials, the environment is badly affected due to such illegal activities of the State Officials is disputed and denied hereby. The answering respondents have never resorted to any illegal activities as alleged. False and baseless allegations have been made only

✓ Dikhyo Jyoti Panda

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to maintain the Original Application. The Respondent No. 05 is taking all steps to provide all basic amenities to the people living in Berhampur Municipal Corporation area and also taking steps for beautification of the town to provide better facilities to the public at large. The answering deponent has explained in the foregoing paragraphs as to the course of action taken by the Tahasildar, Berhampur for greater public interest and to ensure pollution free environment to the water body.

10. That, in reply to Paragraphs 12 to Paragraph 16, it is humbly submitted here that, as already stated the encroached land is a land of highly objectionable in nature being recorded in Rakhita Khata with Kissam Jalasaya and Adi, the LE cases were disposed off by the Tahasildar, Berhampur in his order dated 18.01.2020 as construction made over the plot recorded in Jalasaya/Adi kissam cannot be

Dilip Jyoti Parida

Q

FORM PAR  
NOTARY PUBLIC  
09-11-2022

considered for settlement as the land is objectionable and can not be considered for alienation for purpose of constructing of house as per the law laid by the Hon'ble Apex Court in the case of Hinch Lal Tiwari Vrs Kamala Devi.

However in the mean time, a fresh enquiry has been conducted by the Revenue Inspector, Goilundi and the report indicates that there are altogether 82 Nos of encroachers who are illegally occupying the periphery land of the Baula Bandha. Effective and urgent steps have been taken to evict the encroachers from the land by following due process of law. The deponent undertakes to take all necessary and effective steps for disposal of the OPP cases initiated bearing OPP case No. 08/2022 to 89/2022 (82 Nos) under the Orissa Public Premises (Eviction Of Unauthorized Occupants) Act, 1972 at the earliest.

Dilip Tiwari

FORM PAR  
NOTARY PUBLIC

09-11-2022

Copy of the report of the Revenue Inspector, Goilundi and copy of satellite image of the site in question are enclosed as **ANNEXURE – F/5 & G/5** respectively.

11. That the averments made in the Original Application which have not been specifically admitted in the present affidavit are deemed to have been denied and the Respondent No. 05 reserves his right and seek leave of this Hon'ble Tribunal to submit further reply and produce other relevant documents at the time of hearing for effective adjudication of the dispute.

12. That the facts stated above are all true to the best of my knowledge and based on official records.

**Identified By**

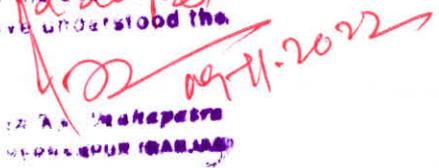
  
**Advocate**

✓   
**Deponent**

FORM PART  
NOTARY PUBLIC

  
09-11-2022

**DECLARATION**  
The Deponent having been identified by  
Mr. Balabhadra Sahasra Advocate  
Berhampur affirms before me this the 20<sup>th</sup>  
before the Notary Public on 09-11-2022  
Read over & explained the document which  
seems pertinent to have understood the  
contents & attested

  
09-11-2022

Mr. A. Mahapatra  
Notary Public (BARAS)

VERIFICATION

I, Sri Dibya Jyoti Parida, aged about 34 years, Son of Sri Prasanna Kumar Parida, at present working as Collector & District Magistrate, Ganjam, At/Po. Chatrapur, Dist. Ganjam, Odisha, do hereby verify and state that the facts stated above in the affidavit are all based on official records and I signed on this verification being present in the office of my Advocate at Cuttack on this the 9<sup>th</sup> day of November 2022.

✓ Dibya Jyoti Parida  
VERIFICANT

FORM PART  
NOTARY PUBLIC

Schedule I Form No.39-A

-226  
KHATIAN

Annexure-A/5

Mouza: Kalapuri

Thana :Brahmapur

Thana Number:77

Tahasil:Brahmapur

Tahasil Number:61

District:Ganjam

Record Holders Name and Khewat or Khatiyani Serial Number	Odisha Government Khewat Number 1					
1) Khatiyani Serial Number	18/142					
2) Citizens Name, Fathers Name, Caste and Native Place	Life Insurance Co. Berhampur, Circle Office, R. C. Church Road, Berhampur					
3) Satwa	Rayati					
4) Payment	Water Rent	Rent	Cess	Nistar cess and other cess if any	Total	5) Incremental Rent Detail
		15335.00	11502.00	0.00	26837.00	
6) Special incidence if any						

BLANKSPACEFORSTAMPING

Last Publication Date:  
Rent Fixation Date :

National Informatic Centre, Odisha

11/11/2022

Collector Ganjam  
Chatrabur

-28-77

KHATA NO.: 18/142		MOUZA: KALAPURI			DISTRICT : GANJAM	
PLOT NO., AND CHAKA NAME	KISSAM AND PLOT RENT	DETAIL OF KISSAM	PLOT NO., AND CHAKA NO.			KISSAM AND PLOT RENT
			7	8	9	
7	8	9	7	8	9	7
101/266	Gharabari I		0	075	0.0000	As per Alli. case no.2/03 brought from Khata 25
101/283	Gharabari I		0	225	0.0000	As per Alli. case no.2/03 brought from Khata 25
2 Plots			0	300	0.0000	

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21/11/2022

Collector Ganjam  
Chandpur

Mouza: Kalapuri

Tahasil: Brahmapur

Thana : Brahmapur

Tahasil Number: 61

Thana Number: 77

District: Ganjam

Record Holders Name and Khewat or Khatiyani Serial Number	Odisha Government Khewat Number 1					
1) Khatiyani Serial Number	18/92					
2) Citizens Name, Fathers Name, Caste and Native Place	Sampadak Naveen					
3) Satwa	Rayati					
4) Payment	Water Rent	Rent	Cess	Nistar cess and other cess if any	Total	5) Incremental Rent Detail
		1017.30	508365	0.00	1525.95	
6) Special incidence if any						

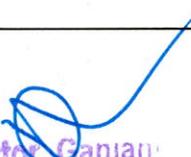
BLANKSPACEFORSTAMPING

Last Publication Date:

Rent Fixation Date :

National Informatic Centre, Odisha

11/11/2022



Collector, Ganjam  
Chatrapur

KHATA NO.: 18/92		MOUZA: KALAPURI			DISTRICT : GANJAM	
PLOT NO. AND CHAKA NO.	KISSAM AND PLOT RENT	DETAIL OF KISSAM	PLOT NO., AND CHAKA NO.			KISSAM AND PLOT RENT
			1	0	11	
7	8	9	1	0	11	12
101/199	Patita		0	107	0.0000	As per Alin. Case No. 631/93 brought from khata No. 25
102/198	Patita		0	069	0.0000	As per Alin. Case No. 631/93 brought from khata No. 25
2 Plots			0	176	0.0000	

ରା ାୟ ସଚନା ବି ାନ ୋକ ,ଓଡ଼ିଶା

21/11/2022

Collector, Ganjam  
Chhatrapur



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
7.12.95			2.12.95	2.12.95

In the Court of the Sub. Collector, Berhampur.

L.E.A. 47/95

Renubala Suka. w/o. Sujana Suka.  
At. Panda Colony, Berhampur Dist. Ganjam -- Appellant  
vs.  
Tahasildar, Berhampur. Respondent

L.E.A. 48/95

Sanyasi Barada. S/o. Prahallada Barada.  
At. Panda Colony, near Engineering School, Berhampur. -- Appellant  
vs.  
Tahasildar, Berhampur. Respondent

L.E.A. 49/95

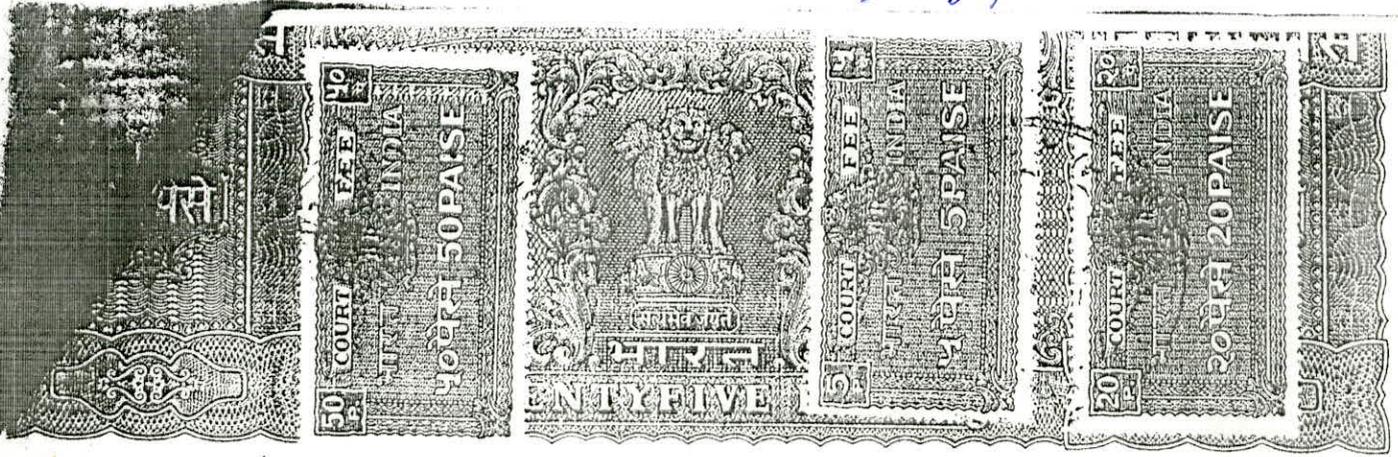
A. Bhimuda Dara. S/o. late A. Jagannath Dara.  
At. Panda Colony, near Engineering School, Berhampur. -- Appellant  
vs.  
Tahasildar, Berhampur. Respondent

L.E.A. 50/95

Surendra Roula. S/o. Kamana Roula.  
At. Panda Colony, near Engineering School, Berhampur.  
vs.  
Tahasildar, Berhampur. Respondent

L.E.A. 51/95

Smt. Soukhwati Moharana w/o. Jagannath Moharana.  
At. Panda Colony near Engineering School, Berhampur. -- Appellant  
vs.  
Tahasildar, Berhampur. Respondent



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		- 2 -		

L.E.A 52/95

Abhimanyu Pradhan S/o. Udaya Pradhan.  
At. Panda Colony, near Engineering School, Berhampur. Appellant

vs.

Tahasildar, Berhampur. Respondent

L.E.A 53/95

Subas Behera S/o. Dharam Behera.  
At. Panda Colony, near Engineering School,  
Berhampur. Appellant

vs.

Tahasildar, Berhampur. Respondent

L.E.A 54/95

Duryodhan Gouda S/o. Mohana Gouda.  
At. Panda Colony, near Engineering School,  
Berhampur. Appellant

vs.

Tahasildar, Berhampur. Respondent

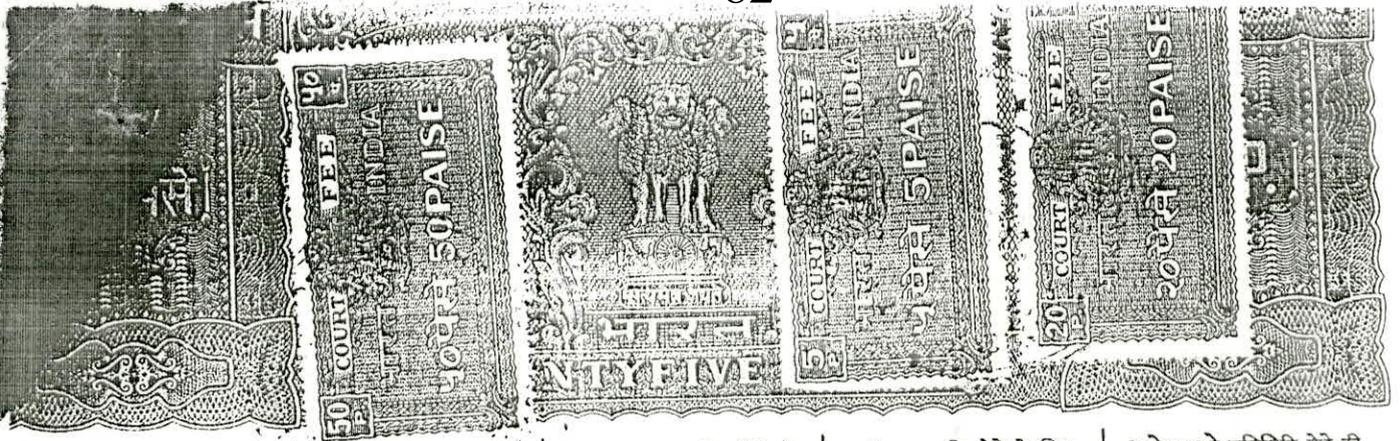
L.E.A 55/95

A. Balaji Dora S/o. A. Ashwadu Dora.  
At. Panda Colony, near Engineering School,  
Berhampur. Appellant

vs.

Tahasildar, Berhampur. Respondent

Collector Sanjan  
Chattrajy



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		- 3 -		

L.C.A 56/95

Kamini Sethi, w/o. Budia Sethi.  
At. Panda Colony, near Engineering School, Berhampur. - Appellant

vrs.

Respondent-

Tahasildar, Berhampur.

L.C.A 57/95

Pitambara Moharana. S/o Prahallad Moharana.  
At. Panda Colony, near Engineering School, Berhampur. - Appellant

vrs.

Respondent-

Tahasildar, Berhampur.

L.C.A 58/95

Biswanath Sahu. S/o Madan Sahu.  
At. Panda Colony, near Engineering School, Berhampur. - Appellant

vrs.

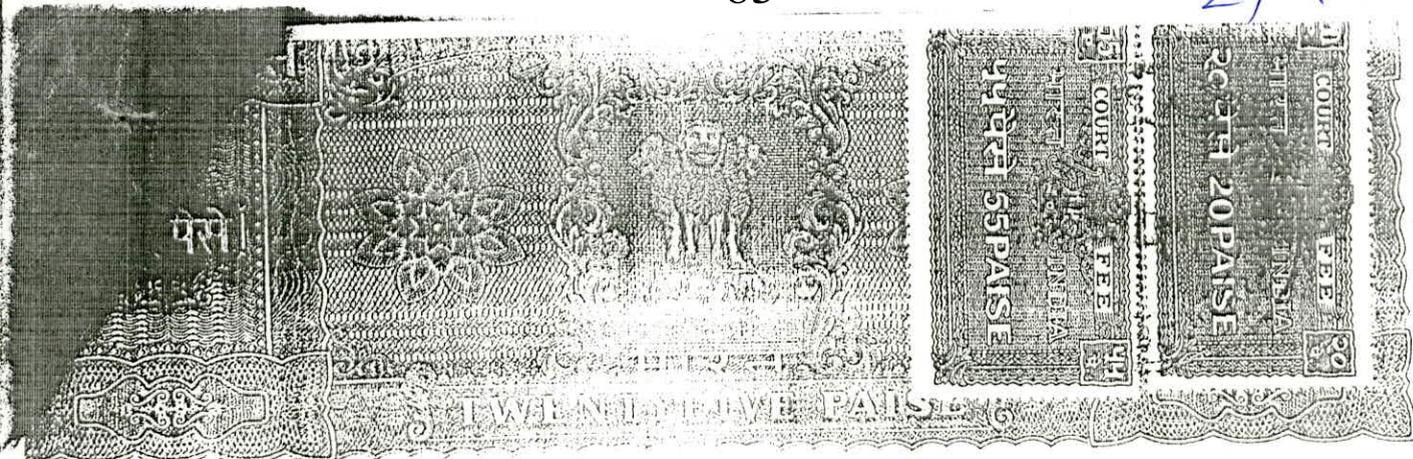
Respondent-

Tahasildar, Berhampur.

ORDER

These appeals have been preferred against the order of Tahasildar, Berhampur passed in L.C.C. case nos. 269/92, 116/92, 115/92, 114/92, 121/92, 123/92, 110/92, 111/92, 118/92, 122/92, 113/92 and 120/92 for encroachment.

Collector, Berhampur  
Chairman

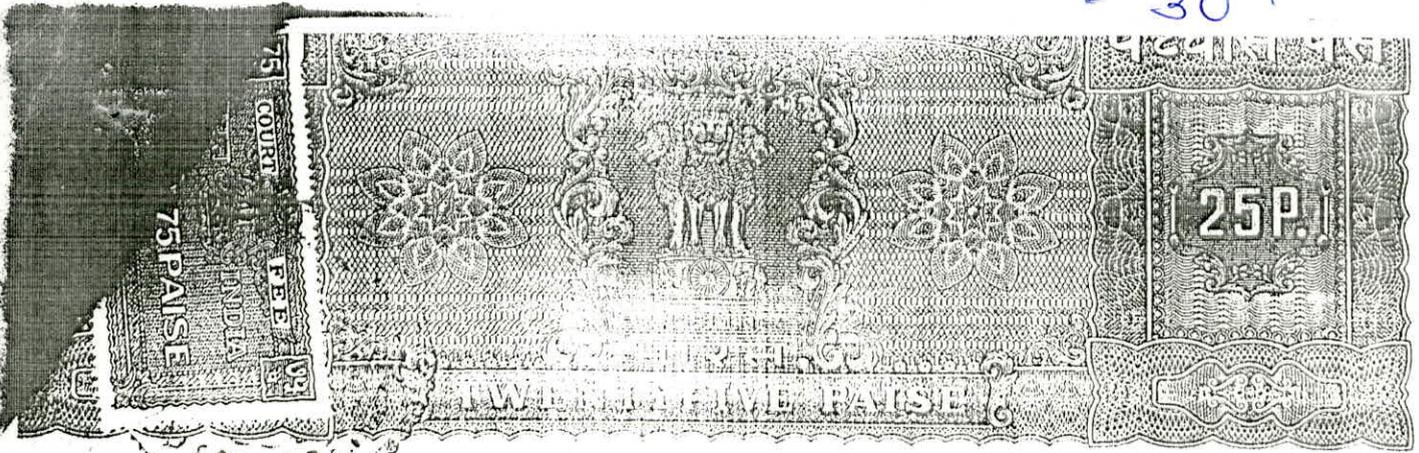


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		- 4 -		

of Govt lands measuring Ac. ~~0.052~~ <sup>0.052</sup>, 0.010, 0.018, 0.018, 0.018, 0.021, 0.022, 0.020, 0.022, 0.018, 0.020 & 0.020 in Khata No. 27 of Kalapuri Mouza (Panda Colony) Berhampur town respectively by the encroachers. As all the cases are common in nature and hence they have heard together.

Collector Sanjan  
Chattopadhyay

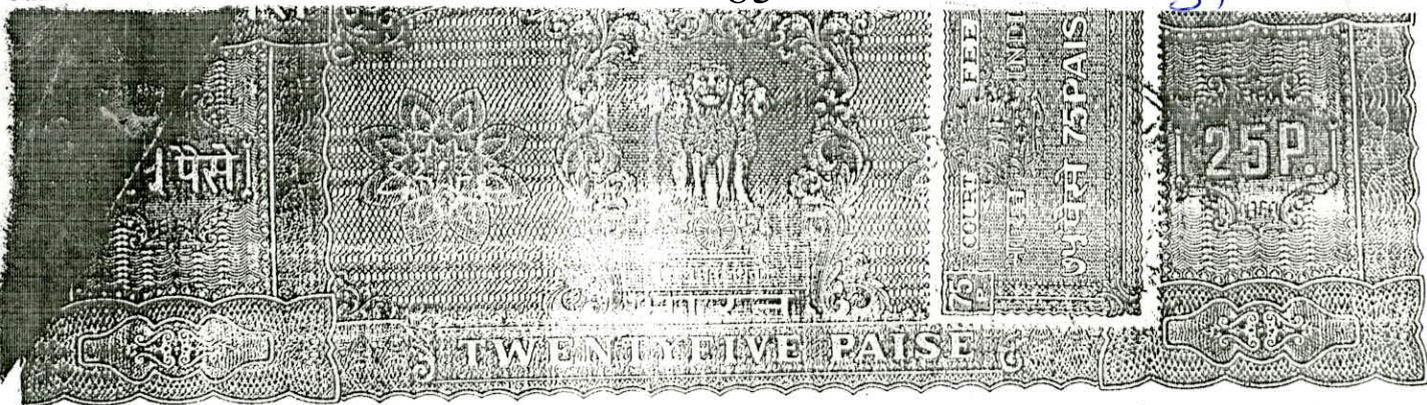
Advocate for the appellants is present and argued that, the appellants are poor and brothers persons. They have no other means except the encroached land where they have already constructed the dwelling houses. He contended that, the appellants have invested a huge amount for their residential purpose. He also states that, the appellants have been in occupation of the encroached Govt. land since their forefathers time i.e. the statutory period and the land in question has been assessed by Berhampur Municipal and as such the learned advocate claimed for settlement of the encroached lands in favour of the appellants. He also contended



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		- 5 -		

that the court below without giving an opportunity of hearing has passed orders behind the back of the appellants.

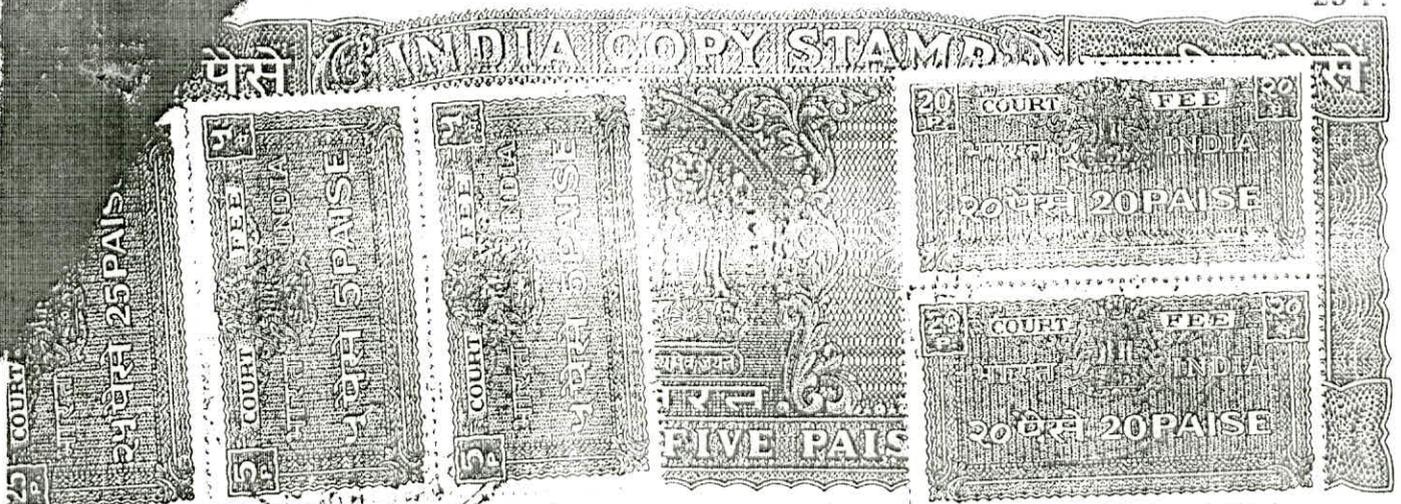
Going through the lower court case record in detail. The 'G' portion of R.I. speaks that, the appellants are actually the landless persons. The land encroached by them are (Gharu) classified under Rakhita Khata and as such this is prima facie objectionable for settlement in urban area. But the lower court has not reflected in the R.O.R. for what purpose the land has been kept reserved. The orders of lower court also reveals that, without obtaining the R.I.'s report he has passed orders erroneously which is not sustainable in the eye of law. During the course of hearing the learned advocate cited (1) of the O.P.L.E. Act from which I found that, where the person liable to pay assessment



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		-6-		

is a landless person. He shall not be liable to pay any penalty under the Section. Hence I inclined to hold that, the cases have not been dealt properly by the lower court which needs re-enquiry. The orders passed in those cases are set-a-side and the cases are remanded again with the following observations and dispose of in merit.

1. An opportunity of hearing be given to the appellants.
2. Landless status of the appellants is to be looked into.
3. Holding taxes if any paid by the appellants to Bahampur municipality to be seen.
4. Adverse possession including the continuous undisturbed possession of more than 30 years is to be seen.
5. Whether the encroached land has been kept reserved for any development purpose be also looked into.



मातहत फॉलियो आवदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
		- 7 -		

Orders pronounced in the open court today i. e.  
 on 22nd day of November, 1995

Typed to my dictation  
 and corrected by me

Sd/- 22-11-95  
 Sub-Collector,  
 Berhampur

Sd/- 22 11 95  
 Sub-Collector, Berhampur

Collector, Ganjam  
 Chanatpur

87<sup>23</sup>

No. 422  
W.P.(C) No. 16747 / 2012

Annexure-D/S

OFFICE OF THE  
SUB-COLLECTOR & SDM  
27 DEC 2019  
BERHAMPUR, GANJAM

THE SUPERINTENDENT OF THE HIGH COURT OF ORISSA, CUTTACK

To

1. The Collector, Ganjam, At-Chhatrapur, Dist-Ganjam.
2. The Sub-Collector, Berhampur, Dist-Ganjam.
3. The Enforcement Officer, B.D.A., Berhampur, Dist-Ganjam.
4. The Commissioner, Berhampur Municipality Corporation, At-Berhampur, Dist-Ganjam.
5. The Tahasildar, Berhampur, Dist-Ganjam.

Dated, Cuttack the 28.11.2019 2019

Sir,

In continuation of Court's Memo No. 30725(5), dated 26.09.2012, I am directed to forward herewith a copy of Court's Order No. 07, dated 17.09.2019 passed in W.P.(C) No. 16747/2012 (Santosh Kumar Panigrahi & Others-Vrs.-The Collector, Ganjam & Others) for your information and necessary action.

Yours faithfully,

*[Signature]*  
SUPERINTENDENT

*Ac-Per*

*[Signature]*

Rev  
9763  
S. Mahapatra

Collector, Ganjam  
Chhatrapur  
*[Signature]*

Sl. No.  
of Order

Date of  
Order

88 - 34  
ORDER WITH SIGNATURE

Office note as to action (if any),  
taken on Order

7

17.9.2019

Heard Sri A.Das, learned counsel for the petitioner and Sri S.N.Mishra, learned Additional Government Advocate for the opposite parties.

This writ petition involves many petitioners involving eviction attempt by the State Authority. The action of the State Authority is under challenge on the premises that L.E.C. Cases have been initiated involving the petitioners involved herein and decided against them. The appellate authority allowed the L.E. Appeal but however remanded the matter to the original authority for re-adjudication of the L.E. Case involved herein. The petitioners though filed the writ petition in 2012 but did not disclose as to the result of the remand L.E. proceeding.

Referring to Annexure-2, Sri S.N.Mishra, learned Additional Government Advocate for the opposite parties submitted that there was no L.E. Appeals in respect of the present petitioners and that the L.E. proceeding has been concluded in 1998 requiring eviction of the petitioners. For there being no order available, Sri Mishra, learned Additional Government Advocate is unable to produce the copy of the orders passed in 1998 involving the L.E. Case involving the petitioners.

In the circumstance and in absence of positive material as to the ultimate outcome involving the L.E. Case indicated herein and taking into account the fact that the petitioners enjoying interim protection of this Court since September, 2012, this Court disposes of the matter observing that in the event the L.E. Case indicated herein above has been disposed of in favour of the petitioners, then there may not be eviction of the petitioners provided there is no legal

Collector Ganjam  
Chaitanya

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>impediment otherwise. This Court further observes, in the event the L.E. Case indicated herein above has not been disposed of as of now after the remand order is passed by the Sub-Collector, it may not be appropriate to evict the petitioners unless the remand L.E. proceeding is closed.</p> <p>Issue urgent certified copy.</p> <p><i>True copy</i></p> <p><i>Sd/- Bishwanath Rath, J.</i></p> <p><i>Dr. [Signature] Supdt</i></p> 	

Collector, Ganjam  
Chandrapur

Annexure - E/S

18.01.2020

Case is taken up today. In the mean while report of R.I Gollor received. Gone through the report and it is ascertained that;

1. The encroacher has constructed house over Govt. land stands recorded as Jalasaya/Adi Kissam.
2. The encroacher is not coming under eligibility criteria.
3. The encroached land is highly objectionable in nature being recorded in Rakhito Khata with Jalasaya/Adi Kissam.

Earlier notice has been issued to the appellant. As regards landless status, it is ascertained that the petitioner is not coming under homestead less criteria. To comply the rest of the observations, it is to state that the case land is recorded as Adi/Jalasaya which is highly objectionable in nature and can not alienable in favour of any person for construction of house or for any other purpose as per kind decision of Hon'ble Supreme court in the matter of Hinch Lal Tiwari Vr. Kamala Devi reported in (2001) 6 SCC 496 AIR 2001 SC 3215. In view of the above decision no such land having kissam of Jalasaya and Adi can be used for any construction.

Hence the construction made over the plot recorded as Jalasaya/Adi is not sustainable nor can be considered for settlement.

In the mean time a letter from Govt. of Odisha R & D.M Deptt. has been received vide letter No 696 dt 09.01.2014 which discloses that all encroachment cases in respect of public premises will be initiated by Estate Officer notified under section 3 of OPP (EUO) Act and all cases pending before original/ appellate authority under OPLE Act will now be transferred to original/appellate authority under OPP (EUO) Act for disposal after giving reasonable opportunity of hearing to the unauthorized occupants.

In view of the above, this case is disposed off. Write a letter with requisition to Sub-Collector, Berhampur who is the Estate Officer of this Sub-Division to take further action at his end as per provision of OPP (EUO) Act 1972 as well as instructions contained in Govt. of Odisha R& D.M Deptt. letter No 696 dt 09.01.2014.

( To my Dict )

18/01/2020  
Tahasildar, Berhampur.

Collector, Ganjam  
Chattopadhyay

OFFICE OF THE REVENUE INSPECTOR, GOILUNDI

Letter No- 342

Date- 18/10/2022

To

The Tahasildar  
Berhampur

Sub: Submission of enquiry report on encroachment over Baula Bandha at Kalapuri Mouza

Sir,

In obedience to your order, I have been to the Baula Bandha at Kalapuri Mouza alongwith RoR, Map and Amin of the Circle to ascertain the present status of the Plot No. 100, 100/132, 101 Kisam: Jalsaya-II(Baula Bandha) and 102, Kisam: Adi in Khata No.27(Rakshita Khata) of Mouza Kalapur. After enquiry, it is ascertained that the following persons have encroached the above plots and staying over there by constructing house :-

SNo.	Khata No.	Plot No.	Area Encroached	Name of the Encroacher
1	27	101	0.024	Malay Kumar Bishoyi
2		101	0.069	Bharat Bikas Joga Samiti tarafe Secretary
3		101	0.017	Sasanka Kumar Sethy s/o Simanchal Sethy
4		101	0.017	Pramod Kumar Sethy s/o Simanchal Sethy
5		101	0.010	Poura Parishad Gruha tarafe Secretary
6		101	0.024	Jyostna Nayak s/o Rama Nayak
7		101	0.017	Sibaram Gouda
8		101	0.013	Kruhna Chandra Panda
9		101	0.010	Simanchal Mahapatra s/o Pankaj Mahapatra
10		101	0.017	Saroj Kumar Jena s/o Debaraj Jena
11		101	0.020	Rabi Rath
12		101	0.013	Rabi Rath
13		101	0.024	Kunjalata Padhy
14		101	0.020	Kuni Panda w/o Dwitikrushna Panda
15		101	0.018	Kartik Behera s/o Sibaram Behera
16		101	0.016	Santosh Behera
17		101	0.016	Braja Muduli s/o Kalia
18		101	0.015	Ulla Panigrahi s/o Dukhishyam Panigrahi
19		101	0.015	Jamuna Nayak w/o Amulya Nayak
20		101	0.015	Hemanta Kumar Nahak s/o Laxman Nahak
21		101	0.016	Uma Panigrahi s/o Narasinha Panigrahi
22		101	0.037	Minakshi Mishra w/o Surya Narayan Mishra
23		101	0.022	Loka Nahak

24	101	0.024	Kalucharan Maharana s/o Radha Maharana Ramesh Chandra Nayak s/o Duryadhan Nayak
25	101	0.018	
26	101	0.057	Sanjukta Nanda w/o Nilanchal Nanda
	102	0.005	
27	101	0.023	Susila Pattanayak
	102	0.028	
28	102	0.013	Santosh Panigrahi s/o Brundaban Panigrahi
29	102	0.007	Bhikari Palo
30	102	0.007	Surendra Patra
31	102	0.007	Bhima Pradhan s/o Krushna Pradhan
32	102	0.007	Nilanchal Maharana
33	102	0.007	Jayanti Dakua w/o Murali
34	102	0.007	Panchanan Behera s/o Bijay
35	102	0.007	Laxmipriya Parida w/o Murali Mohan Parida
36	102	0.007	Kunti Mahankuda w/o Subash
37	102	0.010	Ganga Padhi
38	102	0.010	Sonu Maharana s/o Radhamohan
39	102	0.009	Manoranjan Pani w/o Bibhutibhusan
40	102	0.009	Jyotiranjana Behera s/o Kulu
41	102	0.008	Guribari Sahu w/o Biswanath
42	102	0.010	Bhagyalata Nayak w/o Rajendra Nayak
43	102	0.007	Soura Pradhan s/o Labanya Pradhan
44	102	0.014	Jhunu Pradhan w/o Santosh Pradhan
45	102	0.014	Kamini Sethy w/o Budhia Sethy
46	102	0.007	Mukunda Pradhan s/o Shyam Pradhan Saraswati Maharana w/o Shyamaghan Pradhan
47	102	0.007	
48	102	0.006	Sabita Das w/o Kesab Das
49	102	0.006	Susanta Sahu s/o Biswanath Sahu
50	102	0.018	Abhimanyu Pradhan s/o Udaynath Pradhan
51	102	0.062	Sujan Sukla s/o Bharan Sukla Abhimanyu Maharana s/o Bhobani Maharana
52	102	0.012	
53	102	0.007	Golap Sahu w/o Surya Sahu
	100	0.004	
54	102	0.002	Mamata Panda w/o Bidyadhar Panda
	100	0.009	
55	100	0.011	Pratima Sahu w/o Manmath Sahu Subash Chandra Nanda s/o Subuddhi Nanda
56	100	0.026	
57	100	0.015	G. Ramana s/o G Nayan
58	100	0.016	Radha Jena w/o Budhia Jena

59	100	0.012	Surendra Raula s/o Kamana Raula
60	100	0.008	Pintu Maharana s/o Kuna Maharana
61	100	0.007	Bishnu Raula w/o Suni Raula
62	100	0.007	G Lalita w/o G Kisan
63	100	0.007	Balaji Dora s/o Bhimudu
64	100	0.015	Subash Behera s/o Dharma Behera
65	100	0.029	Duryadhan Gouda s/o Mohan Gouda
66	100	0.048	Sarojini Patra w/o Upendra Patra
	100/132	0.020	
67	100	0.008	Pramila Swain w/o Dibakar
68	100	0.007	Bhaskar Barik s/o Jagannath Barik
69	100	0.008	Tarini Reddy
70	100	0.008	D Santosh Patra s/o D Laxman Patra
71	100	0.009	Bhairabi Prasad Gouda s/o Kasinath Gouda
72	100	0.008	Radhasyam Jena
73	100	0.009	Sanyasi Barad s/o Prahallad Barad
74	100	0.009	Barilk Jena s/o Kuruma Jena
75	100	0.009	Ganapati Biswal s/o Satya Biswal
76	100	0.015	Dinesh Choudhury
77	100	0.020	Prasanna Das
78	101	0.015	Rajendra Kumar Sahu s/o Bijay Chandra Sahu
79	101	0.022	Ramakanta Biswal s/o Maheswar Biswal
80	101	0.017	Dibyanjan Tripathy s/o Gyanaranjan
81	101	0.018	Mamata Pattanayak w/o Purnachandra
82	101	0.017	Hemanta Kumar Dalachatra

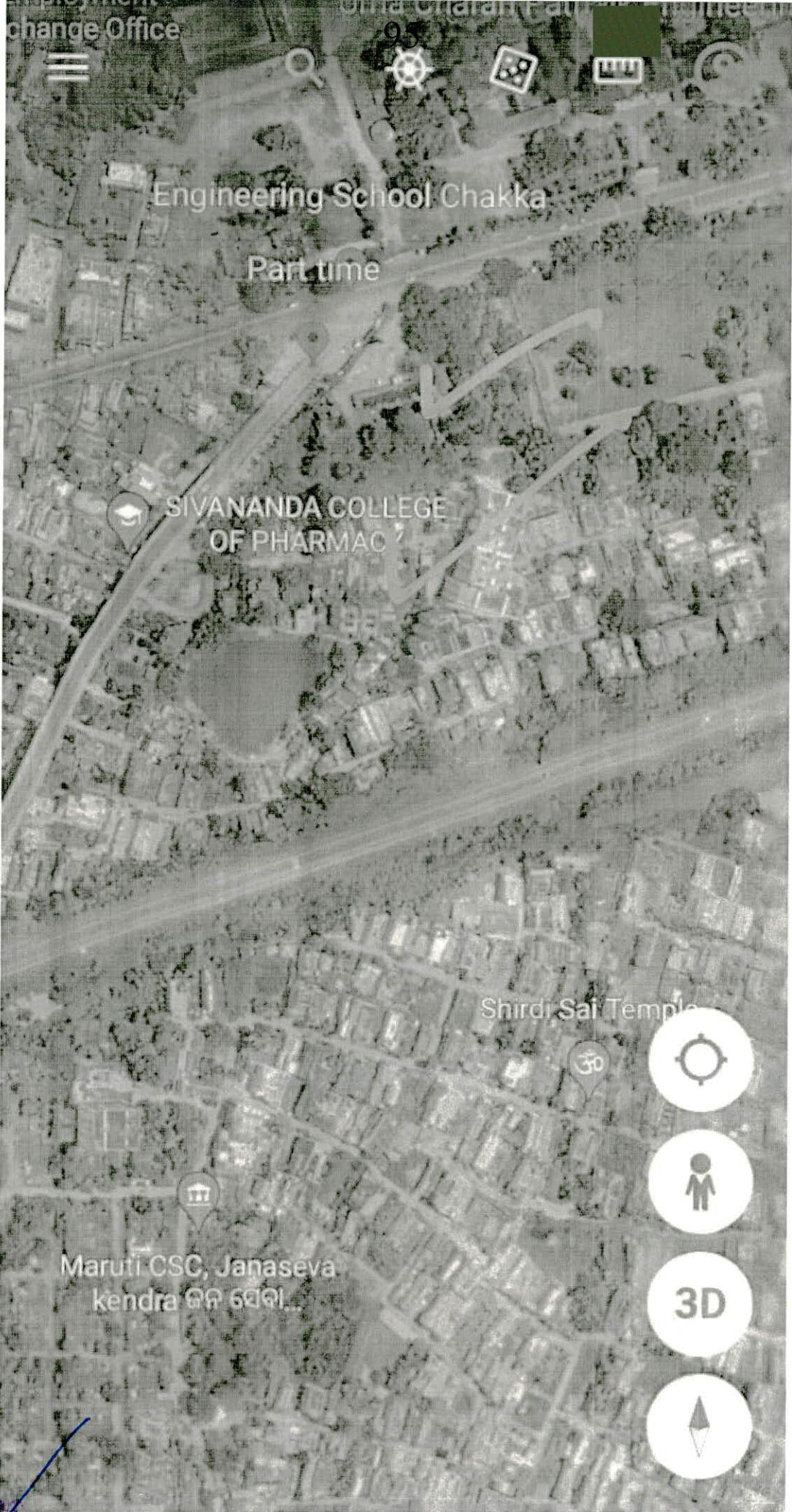
It is therefore requested that the encroachers may be booked under OPP Act, 1972 for eviction from the above plots as it is of objectionable Govt. land.

Yours faithfully,

*M. S. Saha*  
18/10/2022  
Rev. Inspector  
Cercle - Gailundi

Collector, Ganjam  
Chandrapur





- 41 -

Collector Sanjiv  
Chairman



(19°18'25"N 84°49'24"E) 1.03 km ▲

Mouza: Kalapuri

Thana :Brahmapur

Thana Number:77

Tahasil:Brahmapur

Tahasil Number:61

District:Ganjam

Record Holders Name and Khewat or Khatyans Serial Number	Odisha Government Khewat Number 1					
1) Khatyans Serial Number	27					
2) Citizens Name, Fathers Name, Caste and Native Place	Rakhita					
3) Satwa						
4) Payment	Water Rent	Rent	Cess	Nistar cess and other cess if any	Total	5) Incremental Rent Detail
		0.00	0.00	0.00	0.00	
6) Special incidence if any						

BLANKSPACEFORSTAMPING

Last Publication Date:06/05/1977

Rent Fixation Date :

National Informatic Centre, Odisha

11/11/2022

Collector, Ganjam  
Chandour

KHATA NO.: 27		MOUZA: KALAPURI				DISTRICT : GANJAM
PLOT NO. AND CHAKA NO.	KISSAM AND PLOT RENT	DETAIL OF KISSAM	PLOT NO. AND CHAKA NO.			KISSAM AND PLOT RENT
7	8	9	10		11	12
27	Gharabari I	Staff Quarter	1	870	0.0000	Possession of Industrial Deptt. Berhampur
28	Gharabari I	Old Quarter	6	438	0.0000	Possession of Industrial Deptt. Berhampur
12	Gharabari I	Engineering School	19	111	0.0000	Possession of Industrial Deptt. Berhampur
21	Gharabari I	Engineering School	9	206	0.0000	Possession of Industrial Deptt. Berhampur
23	Nayanjori		0	625	0.0000	Possession of PWD Deptt.
24	Road	Pitchu Road	0	563	0.0000	Possession of PWD Deptt. NH 5 Chennai to Kolkata
25	Nayanjori		0	467	0.0000	Possession of PWD Deptt
26	Gharabari I	Staff Quarter	2	968	0.0000	Possession OF Industrial Deptt. Berhampur
13	Nayanjori		0	594	0.0000	Possession of PWD Deptt
14	Road	Pitchu Road	0	519	0.0000	Possession of PWD Deptt. NH 5 Chennai to Kolkata
15	Nayanjori		0	363	0.0000	Possession of PWD Deptt.
18	Nayanjori		0	500	0.0000	Possession of PWD Deptt.
19	Road	Pitchu Road	0	430	0.0000	Possession of PWD Deptt. NH 5 Chennai to Kolkata
20	Nayanjori		0	405	0.0000	Possession of PWD Deptt.
61	Gharabari I	Mela Diha	0	073	0.0000	Illegal Possession of Navi Brothers, Berhampur
62	Gharabari I	Mela Diha	0	051	0.0000	Illegal Possession of Navi Brothers, Berhampur
41	Nayanjori		0	475	0.0000	Possession of PWD Deptt.
43	Nayanjori		0	598	0.0000	Possession of PWD Deptt.
35	Nayanjori		0	331	0.0000	Possession of PWD Deptt.
36	Road		0	164	0.0000	Possession of PWD Deptt. NH 5 Chennai to Kolkata
37	Nayanjori		0	098	0.0000	Possession of PWD Deptt.
9	Gharabari I	Mela Diha	0	145	0.0000	Possession of State Electrical Board, Berhampur
10	Gharabari I	Mela Diha	0	020	0.0000	Possession of State Electrical Board, Berhampur

Collector, Ganjam  
Chatrapur

11	Gharabari I	Mela Diha <sup>98</sup>	0	088	0.0000	Possession of State Electrical Board, Berhampur
102	Adi	Bandha Adi	0	613	0.0000	As per S.D.O.L. No. 11629/R.V. Dated 23/08/78 to khata No. 25, as per the Addl. DM L.No 3319 dated 24-04-93 and as per (Alination Misc No. 12/92 from plot no. 101 Ac. 0.107 and brought form Plot no 102 Ac. 0.069, 0.176 to Anabadi khata 25
16	Gharabari I	Revenue Bangala	0	082	0.0000	
30	Gharabari I	Revenue Bangala	2	525	0.0000	
100/132	Jalasaya II	Baula Bandha	0	020	0.0000	
100	Jalasaya II	Baula Bandha	1	191	0.0000	As per Collector, Gm letter no. 4769 dated 29-06-87 and Tahasildar, Berhampur Memo No. 5809 dated 10-07-87 Ac 0.150 to khata no. 25, Deleted Vide M.C. No. 969/78 Dated 02-06-78, S.O. Berhampur. Collector, Gm Letter No 8638 dated 29-09-84 and Tahasildar Berhampur Memo No. 8155 dated 31-10-84 to Khata no 25
101	Jalasaya II	Baula Bandha	0	911	0.0000	As per Collector, Gm L. No. 3162 dated 29.04.86 and Tahasildar, Berhampur L. No 4204 dated 08-05-86 to khata no. 25. Deleted Vide M.C. No. 969/78 Dated 02-06-78. S.O. Berhampur. Collector, Gm Letter No. 8638 dated 29-09-84 Tahasildar, Berhampur Letter No. 8155 Dated 31-10-84 to khata No. 25. As per S.D.O.L. No. 11629/R.V. 23- 08-78 to Khata no. 25. Adm, GM letter No. 3319 dated 24-04-93 and (Ali) Misc No. 12/92 form Plot No 101 area ac, 0.107 and brought from plot no. 102 area ac 0.069, 0.176 to Anabadi Khata 25. As per Alli. case no.2/03 0.075 to khata No. 18/142

Collector Ganjan  
Chhatrapur

99

101/166	Jalasaya II	Baula Bandha	0073	0.0000	As per ADM, Gm Letter No. 3319 dated: 24.4.93 and Misc. Case No. 12/92 brought from Plot No. 101, 102 101 0.107 102 Ac 0.069 Ac 0.176 to Anabadi Khata 25.
31 Plot			51517	0.0000	

National Information centre, Odisha

21/11/2022

Collector, Ganjam  
Chhatrapur



OFFICE OF THE TAHASILDAR, BERHAMPUR

Miscellaneous Certificate Case No.7614/06

FORM OF CASTE / TRIBE CERTIFICATE

This is to Certify that Sri/Smt/ Miss Pramod Kumar Sethi S/o Simanchal Sethi village/PO- Revenut I.B.Campus,Engg.School Road,Berhampur in the District of Ganjam, State of Orissa belongs to "**DHOBA**" by Caste/Tribe which is recognized as Scheduled Caste under the constitution (Schedule Caste / Scheduled Tribe) order 1950 as amended by the Scheduled Caste and Scheduled Tribe list (Modification) under 1956 and the Scheduled Caste and Scheduled Tribe order Amendment Rule 2002.

Shri / Smt/ Miss Pramod Kumar Sethi and his family ordinarily resides in village / Town,PO- Revenue I.B.Campus,Engg.School Road,Berhampur of Ganjam District in the State of Orissa.

This certificate is being granted only for the purpose of Employment.

*Pramod Kumar Sethi*  
Signature of the applicant

*[Signature]*  
Signature

Dated

*[Signature]*  
Designation

Memo No.

Dated

Copy submitted to the District Welfare Officer, Ganjam Collectorate, Chatrapur for information.

Tahasildar, Berhampur

*Pramod Kumar Sethi*

Item No.10

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Miscellaneous Application No.30/2024/EZ

In

Original Application No.114/2022/EZ

Sirin Tammana &amp; Ors.

Applicant(s)

Versus

State of Odisha &amp; Ors.

Respondent(s)

Date of hearing: 07.01.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : *Suo Motu*

Mr. Biranchi Narayan Mahapatra, Adv. (in O.A.) (in Virtual Mode)

For Respondent(s) : Mr. Debasis Tripathy, AGA for State of Odisha (in Virtual Mode),  
Ms. Papiya Banerjee Bihani, Adv. for R-3 (in Virtual Mode)

**ORDER**

1. Mr. Biranchi Narayan Mahapatra, learned Counsel is present (in Virtual Mode) on behalf of the Applicant in Original Application No.114/2022/EZ.
2. Affidavit dated 12.09.2024 has been filed on behalf of the Respondent No.5, Collector-cum-District Magistrate, Ganjam Collectorate; the same is taken on record.
3. In this affidavit, with regard to the direction of the Tribunal to create a waterbody in an alternative area of 2.421 acre, it is stated that the Tahasildar, Berhampur vide his letter dated 10.08.2022 had earlier furnished the said aforesaid land schedule of area 35.409 acre which was covered with water plants, bushes, filled with earth mane and silt wherein the required area of 11.512 acre of waterbody can be recreated by digging and renovating. It is stated that in response to the instructions of the Collector, Ganjam, the Berhampur Municipal Corporation Authority has undertaken

renovation and recreation of the aforesaid Government land under the ATAL Mission for Rejuvenation and Urban Transformation Scheme (AMRUT Scheme) for the whole area of 35.409 acre.

4. The other aspect of the matter is with regard to removal of encroachment. It is stated that OPP Case Nos.8/2022 to 89/2022 (total 82 cases) under the Orissa Public Premises (Eviction of Unauthorized Occupants) Act, 1972 have been initiated and notices issued to the encroachers. It is stated that the encroachers had approached the Hon'ble High Court of Odisha and filed Writ Petition No.21598 of 2024 and W.P. (C) No.21874 of 2024 and the Writ Petition was disposed of by the Hon'ble High Court vide its order dated 03.09.2024 directing the Competent Authority concerned to dispose of the OPP Cases within a period of two months from the date of presentation of an authenticated copy of the order. It was further directed that till disposal of the above noted OPP Cases, no coercive action shall be taken against the Writ Petitioners of the said Writ Petitions.
5. Almost three months have passed since the order of the Hon'ble High Court of Odisha but no fresh affidavit has been filed to bring on record the updated status with regard to the disposal of the OPPC Cases. We, therefore, direct the State Respondents, Government of Odisha to file fresh affidavit within two weeks in this regard.
6. Mr. Debasis Tripathy, learned Additional Government Advocate is present (in Virtual Mode) on behalf of the State Respondents, Government of Odisha. When the case is next listed, the name of Mr. Debasis Tripathy shall be printed in the cause list as the

Additional Government Advocate for the State Respondents,  
Government of Odisha.

7. **List on 27.02.2025.**

.....  
**B. Amit Sthalekar, JM**

.....  
**Dr. Arun Kumar Verma, EM**

January 07, 2025,  
Miscellaneous Application No.30/2024/EZ  
In  
Original Application No.114/2022/EZ  
SKB



No 1925 Rev

Date. 23/08/2024

To,

ANNEXURE-7

The Commissioner,  
BeMC, Berhampur.

Sub: O.A. No.114/2022/EZ filed by Sirin Tamana and others Vrs State of Odisha and others

Ref: Letter No. 7945 dated 14.08.2024 of Tahasildar, Berhampur.  
Order dated 22.03.2024 of Hon'ble NGT, Kolkata.

Sir,

With reference to the subject cited above, I am to enclose herewith the copy of the order dated 22.03.2024 of Hon'ble NGT, Kolkata in O.A. No.114/2022/EZ filed by Sirin Tamana and others Vrs State of Odisha and others.

In the above context, it is to intimate here that, the Govt. land to an extent of Ac.2.421 has been identified by the Tahasildar, Berhampur which will be developed as waterbody in accordance with the directions given by the Hon'ble NGT (copy enclosed).

However, the other directions at point No. 26 of the order of Hon'ble NGT are required to be executed at your level. The work so executed by you be reported to this office immediately for filing of compliance affidavit before the Hon'ble NGT by 16.09.2024.

In view of the above, I am to request you to take immediate steps to carry out the order of Hon'ble NGT and do needful at your end as per the order and submit the compliance report immediately.

This may be treated as **most urgent** and dealt with **top priority**.

Yours faithfully,

Collector, Ganjam

Memo No 1926 /

Date: 23/08/2024

Copy to the Tahasildar, Berhampur for information and necessary action with reference to his letter No. 7945 dated 14.08.2024. He is requested to ensure the compliances as per order of Hon'ble NGT in the said case and submit compliance affidavit before the Hon'ble NGT on behalf of respondents within due time.

True copy attached  
Collector, Ganjam  
Chatrapur

Collector, Ganjam

To,

1. **The Additional Chief Secretary, Revenue and Disaster Management Department, Government of Odisha, Lok Seva Bhavan, Pin: 751001, Dist: Khordha, Odisha**
2. **Revenue Divisional Commissioner**  
Southern Division, Berhampur-760004, District: Ganjam, State: Odisha
3. **The Collector-Cum-District Magistrate, Ganjam Collectrate, Chatrapur-761020, Dist: Ganjam, Odisha,.**
4. **The Municipal Commissioner, Berhampur Municipal Corporation, at/Po: Berhampur-760002, Ganjam, Odisha**
5. **The Tahasildar, at/Po: Berhampur-760004, District: Ganjam, State: Odisha**

**Sub:** For necessary steps of rehabilitation of the Petitioner as per the Statutory Provision of law and to record the land as per the occupation by way of change of the Kissam -reg.

**Ref:** Plot No: 101 and 102 of Khata No: 27 situated under Kalapuri Mouza under Berhampur Tahasil of Ganjam District of Odisha-reg.

**Sir,**

The undersigned is here by requesting to you please make arrangement for rehabilitation of the Petitioner as per the statutory provision of law. It is a settled Principle that the State Government is duty bound for rehabilitation of the petitioner prior process of Eviction. The Plots in question is coming under the preview of the Berhampur Municipal Corporation. The National Green Tribunal (NGT), Eastern Zone Bench is already Passed order in O.A No:

*Pranab Kumar Saha*

82 of 2015/EZ that prior process of Eviction the Municipal Corporation should take a step for rehabilitation of the People. The Plot in question has been recorded as Jalasaya/ Adi during the Period of Settlement operation of the locality. But, now a days the Kissam of the land has been lost its character and the Petitioner along with the forefathers are living in the locality since the Period 50 years. The Petitioner is entitled to get the settlement right as per the rules and regulations of the State Government. The Tahasildar has no authority to initiate Eviction proceeding against the Petitioner without consultation with the Berhampur Municipal Corporation for the rehabilitation of the Petitioner. It is apt to mention here that the Petitioner is living in the above Plot by construction the building and no Point of time the State officials were objected to the Petitioner. In this locality the Berhampur Municipal Corporation has constructed a concert road/ drain and other Government development works has been under taken. Due to lost of the character of the Jalasaya/ Adi the Municipal Corporation has been taken steps and utilized the Government funds for the development of the locality. Due to lost of its Character the State Government has been pleased and the allotted the Jalasaya land to the Life insurance corporation of India vide Alienation Case No: 02 of 2003 (newly assigned Plot No: 101/266 and 101/283 of Khata No: 18/142 and another Plot No: 101/99 and 102/198 of Khata No: 18/92 allotted in favour of the Weekly News Paper Nabeen vide Alienation Case No: 631 of 1993. Surprisingly, by way of Change of Kissam the State Government has taken steps for Alienation of the Jalasya Plot in favour of Life Insurance Corporation of India (LIC) and Sampadaka, Weekly News Paper Nabeen. But, the State Government is not taking steps

*Ramesh Kumar Setai*

for the settlement of the land in favour of the Petitioner by way of Alienation. The Petitioner's ancestors have constructed the house for residential purpose and the Petitioner and his family members are residing in this place till date. The Revenue Department has failed to settle the land in the name of the Petitioner, even though the Kissam of the land has been lost its original character. It is apt to mention here that the interest of justice is itself demanding that the State Government should take necessary steps to change the Kissam of the Plot in question. It is a settled Principle the Tahasildar has no authority to initiate the Eviction Proceeding against the Petitioner with in the area of the Municipal Corporation. The Municipal Corporation has not taken any steps for Eviction of the Petitioner from the full fledged developed area which has been done by the Berhampur Municipal Corporation. The Petitioner is landless as well as poor and needy in the society. Hence, the Petitioner is living in this house since the long ago. It is humbly requesting to you to enquiry into the matter and settles the Plots in question in favour of the Petitioner for the ends of justice.

  
(Petitioner)

Pramod Kumar Sethi,

Date: 14.02.2025

From:

Pramod Kumar Sethi, residing at: Panda Colony, PO:  
Engineering School, Berhampur -760010, Dist: Ganjam, Odisha

RO189892613IN IVR:8279189892613

RL COURTPETA S.O <760004>

Counter No:1,15/02/2025,11:22

To:THE MUNICIPAL,COMMISSIONER

PIN:760002, Berhampur City S.O

From:PRAMOD KU SETHI,PANDA COLONY

Wt:20gms,REG=17.0

Amt:25.96,Tax:3.96,Amt.Paid:26.00(Cash)

<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>

<Dial 18002666868><Wear mask -Stay safe>



RO189892600IN IVR:8279189892600

RL COURTPETA S.O <760004>

Counter No:1,15/02/2025,11:22

To:THE R D C SD,BERHAMPUR

PIN:760004, Medical College S.O

From:PRAMOD KU SETHI,PANDA COLONY

Wt:20gms,REG=17.0

Amt:25.96,Tax:3.96,Amt.Paid:26.00(Cash)

<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>

<Dial 18002666868><Wear mask -Stay safe>



RO189892627IN IVR:8279189892627

RL COURTPETA S.O <760004>

Counter No:1,15/02/2025,11:22

To:THE COLLECTOR,CUM DM GANJAM

PIN:761020, Chatrapur H.O

From:PRAMOD KU SETHI,PANDA COLONY

Wt:20gms,REG=17.0

Amt:25.96,Tax:3.96,Amt.Paid:26.00(Cash)

<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>

<Dial 18002666868><Wear mask -Stay safe>



RO189892560IN IVR:8279189892560

RL COURTPETA S.O <760004>

Counter No:1,15/02/2025,11:22

To:THE ADDL CHIEF,SECY R&DM DEPT

PIN:751001, Bhubaneswar S.P.O.

From:PRAMOD KU SETHI,PANDA COLONY

Wt:20gms,REG=17.0

Amt:25.96,Tax:3.96,Amt.Paid:26.00(Cash)

<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>

<Dial 18002666868><Wear mask -Stay safe>





take all necessary steps on my behalf in the above matter, I agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this on 7th day of April 2025.

*S. Law Agency*

**ACCEPTED**

*Ramesh Kumar Setai*  
**SIGNATURE OF THE APPLICANT**