

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

**Original Application No.223/2024/EZ**

**IN THE MATTER OF:-**

**News Item Title “Odisha Land Jihad in Malkangiri  
District Islam Nagar built on 100 acres of forest  
land in Motu Area appearing in the Organiser  
dated 30.09.2024”. .....** *Sou Motu*

**Versus**

**State of Odisha &Ors. ....** Respondents

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*Signature*

|    |  |        |
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Cuttack

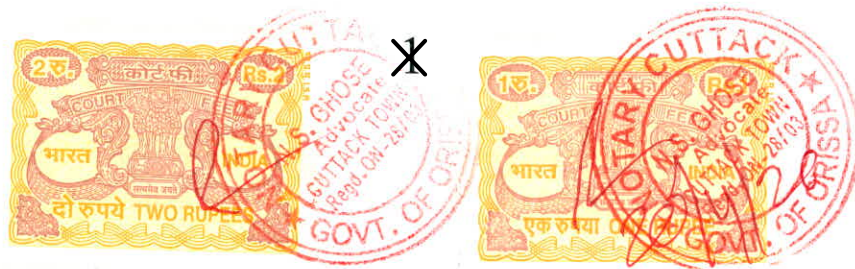
Advocate for the Respondent No. 3

Dated.20.04.2026

PARTHA SARATHI NAYAK  
ADDL. GOVERNMENT ADVOCATE

Mob:- 9437277043

Email:- advparthaohc@gmail.com



BEFORE THE NATIONAL GREEN TRIBUNALEASTERN  
ZONE BENCH, KOLKATA

Original Application No.223/2024/EZ

IN THE MATTER OF:-

News Item Title “Odisha Land Jihad in Malkangiri  
District Islam Nagar built on 100 acres of forest land in  
Motu Area appearing in the Organiser dated  
30.09.2024”.

..... *Sou Motu*

Versus

State of Odisha &Ors.

....Respondents

**COMPLIANCE AFFIDAVIT FILED ON BEHALF OF**  
**RESPONDENT No. 3 IN PERSUANCE TO ORDER**  
**DATED 09.04.2026**

Arjun Pradhan  
Tahasildar  
Motu

I, Shri Arjun Pradhan, aged about 50 years, S/o Late  
Narasingha Pradhanat present working as the Tahasildar,  
Motu At/PO/PS-Motu, Dist- Malkangiri vide letter no.  
3609/XXIV-148/2026 dated 17.04.2026 of Collector, Malkangiri,  
do hereby solemnly affirm and state as follows:-

1. That I am working as Tahasildar, Motu and I am duly  
authorised by the Respondent No.3 to swear this affidavit on  
his behalf. I am well acquainted with the facts of the case and



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also competent to swear this affidavit on behalf of the Respondent No.3.

2. That the present Original Application is registered suo-motu on the basis of the news item titled 'Odisha Land Jihad in Malkangiri District Islam Nagar built on 100 acres of forest land in Motu Area' appearing in Organiser dated 30.09.2024".The matter relates to the alleged encroachment of approximately 100 acres of forest land in the Motu area in Malkangiri district, Odisha to establish a settlement named Islam Nagar.
3. That in the year 2022, the R.I, Motu was submitted 03 nos. of "G" Form to the office of Tahasildar, Motu regarding encroachment of Govt. land at Baribancha village by (1) Md. Hassam Khan, S/O Md. Ismail Khan, (2) Md. Masoom Khan, S/o Ismail Khan and (3) Md. Jamal Khan, S/o Md. Ismail Khan of Motu village. Accordingly, Encroachment Cases were booked against them vide E.C Case No. 01/22, 02/22 and 03/22 respectively under OPLE Act, 1985. They had been issued notice and also given 30 (Thirty) days to remove the encroachment from the date of receipt of the notice failing which they will be summarily evicted from the Govt. land. Challenging said notice issued under OPLE Act, the encroachers approached before the Hon'ble High Court of Orissa, Cuttack vide W.P (C) No. 14868/2022, 14867/2022

Arjuna Pradhan  
Tahasildar  
Motu

*Arjuna Pradhan*



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and 14870/2022. The land details, name of encroachers and corresponding writ applications are as follows.

| Sl. No       | Name of the Mouza | Khata No. | Plot No. | Total extent of area (Hc.) | Kissam        | Area of occupation (Hc.)       | Nature of occupation      | Name & address of the encroacher                  | Remarks               |
|--------------|-------------------|-----------|----------|----------------------------|---------------|--------------------------------|---------------------------|---|-----------------------|
| 1            | 2                 | 3         | 4        | 5                          | 6             | 7                              | 8                         | 9   | 10                    |
| 1            | Baribancha        | 20        | 74       | 3.680                      | Jungle        | 2.000                          | Farm Pond                 | Md. Hassam Khan, S/o Late Ismail Khan, Vill: Motu | WP (C) No. 14868/2022 |
|              |                   | 20        | 73       | 2.700                      | Jungle        | 1.000                          | Farm Pond                 |   |                       |
| 2            | Baribancha        | 18        | 44       | 3.959                      | Jungle        | 1.000                          | Farm Pond                 | Md. Masoom Khan, S/o Late Ismail Khan, Vill: Motu | WP (C) No. 14867/2022 |
|              |                   | 18        | 77       | 1.025                      | Gramya Jungle | 1.025                          | Farm Pond                 |   |                       |
|              |                   | 18        | 78       | 10.450                     | Gramya Jungle | 3.000                          | Farm Pond                 |   |                       |
| 3            | Baribancha        | 18        | 76       | 4.700                      | Gramya Jungle | 3.000                          | Kendu leaf godown & House | Md. Jamal Khan, S/o Late Ismail Khan, Vill: Motu  | WP (C) No. 14870/2022 |
| <b>TOTAL</b> |                   |           |          |                            |               | <b>Hc. 11.025 (Ac. 27.231)</b> |                           |   |                       |

4. That in the WP (C) No. 14868/2022, 14867/2022 and 14870/2022, the Hon'ble High Court of Orissa, Cuttack vide order dated 17.06.2022 directed that "Status quo be maintained till the next date". Accordingly, the encroachers could not be evicted from the encroachment land. Hon'ble High Court of Orissa, Cuttack vide common Judgment dated 31.10.2025 was pleased to dismissed all the above writ applications.

*Signature*

*Anjuna Pradhan*  
Tahasildar  
Motu



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The online copy of common judgment dated 31.10.2025 passed in W.P.(C) No.14868/2022, 14867/2022 and 14870/2022 is filed herewith as ANNEXURE-D/3.

5. That, after disposal of W.P.(C) No. 14868/2022, 14867/2022 and 14870/2022 vide judgment dated 31.10.2025, the office of Advocate General, Odisha vide letter no.300 dated 06.01.2026 communicated the said judgment to the respondent No.3. Accordingly notices were issued to all the three above named encroachers on 30.01.2026 with a direction to vacate the occupied Govt. land on or before 09.02.2026.

Asuna Pradhan  
Tahasildar  
Motu

The Photo copy of notice issued to the encroachers are filed herewith as ANNEXURE-E/3 Series

6. That it is respectfully submitted that, Revenue Inspector, Motu was also directed to submit report whether the encroachers have vacated the encroached land or not on or before 09.02.2026. In compliance to said direction, the R.I. Motu submitted report that, the encroachers have not vacated the encroach land on 09.02.2026. As per direction of the Tahasildar, Motu, Revenue Inspector, Motu and Revenue Supervisor, Tahasil office Motu were proceeded to the case land in the Mouza Baribecha on 17.02.2026 with JCB and



*Asuna Pradhan*

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labours and partly evicted the encroachers. Again the Tahasildar, Motu fixed another date i.e. 26.03.2026 for eviction. The IIC, Motu was requested to deploy the police force on 26.03.2026 vide this office letter no. 643 dated 23-03-2026. Similarly, Sub-Collector, Malkangiri was also requested to depute the Executive Magistrate to maintained law and order situation. But due to some other official engagement eviction activities were postponed.

The photo copy of letter no. 643 dated 23-03-2026 is filed herewith as

ANNEXURE-F/3

Ajuna Pradhan  
Tahasildar  
Motu

7. That it is respectfully submitted that, Sub-Collector & Sub Divisional Magistrate, Malkangiri fixed the date i.e. 05.04.2026 for eviction and vide letter No.2440 dated 02.04.2026 deputed 4 Nos. of Executive Magistrate to maintain Law and Order. Similarly vide letter No.2442 dated 02.04.2026 requested the Superintendent of Police, Malkangiri to deploy force for smooth eviction of the encroached land. Accordingly on 05.04.2026 all the structures and buildings have been demolished from the encroachment land in the mouza Baribecha by the help of 5 nos. of JCB. During the whole eviction activities in the mouza Baribecha Sub-Collector, Malkangiri, Tahasildar, Motu, SDPO, Malkangiri, IIC, Motu with police personal and 04 nos. of Executive Magistrate were also present in the case land. All

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the encroachers have been evicted from the encroachment land marked by red flags and taken into Government Possession. There are 05 nos. of ponds with full water situated within the Forest area which are also taken into Government possession are now being used by animals and cattle for drinking purpose.

The photo copy of letter No.2440 dated 02.04.2026 & letter no.2442 dated 02.04.2026 issued by Sub-Collector & Sub Divisional Magistrate, Malkangiri along with photo showing eviction from the encroach land are filed herewith as

Ajuna Pradhan  
Tahasildar  
Motu

ANNEXURE-G/3 Series.

8. That, it is respectfully submitted that the encroachers have encroached upon Ac. 27.231dec. of land. In the eviction process the encroachers were evicted from all the encroached land i.e. Ac.27.231dec. of landas mentioned in paragraph 3 of this compliance affidavit and were taken in to possession of Government.
9. That it is submitted that the Respondent No.3 reserves the right to file further affidavit if so, required in future.
10. That the facts stated above all are true to the best of my knowledge and belief and based on official records.

Identified by

P.S. Nayak

Advocate 20/04/2026



Ajuna Pradhan  
Tahasildar  
DEPONENT

*[Handwritten signature]*

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CERTIFICATE

Certified that cartridge papers not being available,  
thick white papers are being used.

Cuttack

Dt.20.04.2026

PARTHA SARATHI NAYAK  
ADDL. GOVERNMENT ADVOCATE  
Mob:- 9437277043

Arjuna Patraadhan  
Tahasildar  
Motu



The above named deponent being identified  
by Mr./Ms. P. S. Nayak  
appears before me at ..... AM/PM  
on this the 20/4/26 of ..... 20.....  
solemnly affirms that the facts stated  
are true to his/her knowledge and belief

NOTARY  
CUTTACK TOWN  
20/4/26

A.F.R.

- X -

ANNEXURE-D/3

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Reason: Authentication  
Location: ORISSA HIGH COURT, CUTTACK  
Date: 06-Nov-2025 16:03:14

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14868 of 2022  
along with batch of cases

(In the matters of petitions under Articles 226 and 227 of the Constitution of India, 1950).

(In W.P.(C) No.14868 of 2022)

*Md. Hasam Khan* .... *Petitioner(s)*

*-versus-*

*State of Odisha & Ors.* .... *Opposite Party(s)*

*Advocates appeared in the case through Hybrid Mode:*

*For Petitioner (s)* : *Mr. Goutam Mukharjee, Sr. Adv.*  
*Along with Associates*

*-versus-*

*For Opp. Party(s)* : *Mr. Sonak Mishra, ASC*

**CORAM:**

**DR. JUSTICE SANJEEB K PANIGRAHI**

**DATES OF HEARING:- 19.09.2025**

**DATE OF JUDGMENT:- 31.10.2025**

**(W.P.(C) No.14868 of 2022 along with W.P.(C) Nos.14867 of 2022**  
**and 14870 of 2022)**

**Dr. Sanjeeb K Panigrahi, J.**

1. Since common questions of fact and law are involved in the above-mentioned writ petitions, those were heard together and are being disposed of by this common judgment. However, this Court deems it appropriate to treat W.P.(C) No. 14868 of 2022 as the lead case for the purpose of adjudication.

  
**Tahasildar**  
**Motu**



2. The petitioners in the present Writ Petition have challenged the order/notice dated 06.06.2019 issued by the Sub-Collector, Malkangiri, purportedly under Rule 12(a)(3) and Rule 10 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, as well as the notice issued under Section 6(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

**I. FACTUAL MATRIX OF THE CASE:**

3. Succinctly put, the facts of the case are as follows:

- (i) In 1920, Maharaja Vikram Dev granted a parcel of land measuring Ac. 360 situated in Mouza Baribancha by issuing a ROR in favour of the petitioners' father, late Md. Ismail, who was earning his livelihood by foraging in the adjoining forest.
- (ii) In 1973, the Government of Odisha issued an ROR in respect of Ac. 75 out of the said Ac. 360 in favour of the petitioner's father.
- (iii) On learning that forest lands under occupation were being settled under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the petitioner, in January 2019, submitted an application before the Sub-Collector, Malkangiri, seeking verification and issuance of an ROR in his favour.
- (iv) On 06.06.2019, the Sub-Collector, Malkangiri, acting under Rule 12(a)(3) read with Rule 10 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, rejected the petitioner's application and directed him to appear with all supporting documents on 21.06.2019 before the Executive Magistrate-

  
**Tahasildar  
Motu**



cum-Tahasildar, Motu, Malkangiri. The petitioner submitted all available documents on the said date. However, no further intimation was issued to him for hearing, adducing evidence, or recording his statement.

- (v) Subsequently, the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri, issued a notice dated 25.05.2022 under Section 6(1) of the 2006 Act directing the petitioner to vacate the land within 30 days and imposing a penalty of ₹5,000/-.
- (vi) Aggrieved thereby, and having no other efficacious remedy, the petitioner has approached this Court seeking appropriate relief.

## II. PETITIONERS' SUBMISSIONS:

4. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:

- (i) The petitioners submitted that in 1973, the Government of Odisha issued a ROR in respect of Ac. 75 out of a total Ac. 360 in favour of their father, late Md. Ismail. The remaining Ac. 285 continued in his possession and, after his demise, has remained under their continuous cultivation and possession. The said land has been cultivated by the petitioners and their family members for over a century and constitutes their sole means of livelihood.
- (ii) The petitioners further submitted that upon learning that forest lands under occupation were being settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, they submitted an application in January 2019 before the Sub-Collector, Malkangiri seeking verification and issuance of an ROR in their favour.

  
Tahasildar  
Motu



- (iii) The petitioners submitted that on 06.06.2019, without conducting any proper verification, the Sub-Collector, Malkangiri, purporting to act under Rule 12(a)(3) read with Rule 10 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, rejected their application and directed them to appear before the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri, on 21.06.2019 with all supporting documents. The petitioners stated that they duly appeared and submitted all relevant documents.
- (iv) The petitioners submitted that Rule 12-A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, prescribes the procedure for recognition of rights and mandates the presence of officials from the Forest and Revenue Departments during verification of claims and evidence on-site, requiring them to sign the verification proceedings with their designation, date, and remarks, if any. They submitted that a plain reading of Rule 12-A makes it evident that the procedure contemplated therein was not followed by the authorities while rejecting their claim. They further submitted that despite compliance with all directions and submission of relevant documents, no opportunity was afforded to them for hearing, adducing evidence, or recording statements.
- (v) The petitioners submitted that sub-rule (3) of Rule 12-A mandates that any decision modifying or rejecting a claim must be communicated personally to the claimant to enable him to prefer an appeal before the Sub-Divisional Level Committee or the District Level Committee within sixty days, extendable by thirty days at the discretion of the committee. They submitted that despite submitting all documents on

  
**Tahasildar**  
**Motu**



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21.06.2019 before the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri, they were neither called for hearing within thirty days nor granted any extension for representation within sixty days, thereby violating the mandatory procedure prescribed under the Rules.

- (vi), The petitioners submitted that although they repeatedly approached the concerned authorities, no further action was taken. During the COVID-19 pandemic, proceedings were suspended, however, even after normalcy resumed, no notice was issued nor any field enquiry conducted. They alleged that their application was kept pending without any justification.
- (vii) The petitioners submitted that on 25.05.2022, without adhering to due procedure or complying with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri, issued the impugned notice under Section 6(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, directing them to vacate the land within thirty days and imposing a fine of ₹5,000/-, which was allegedly recovered through coercive means.
- (viii) The petitioners finally submitted that having no other efficacious or alternative remedy, they have approached this Court under Article 226 of the Constitution of India seeking appropriate relief.

### III. SUBMISSIONS OF THE OPPOSITE PARTIES:

5. Per contra, the learned counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:

  
**Tahasildar  
Motu**



- (i) Upon receipt of 'G' Form issued by the Revenue Inspector, Motu, an Encroachment Case bearing No. 01 of 2022-23 was instituted against the petitioner under Rule 3 of the Odisha Prevention of Land Encroachment Rules, 1985. Notice in Form-A was duly served on the petitioner on 25.05.2022. The petitioner appeared before the Tahasildar, Motu. Upon verification, it was found that he is not a landless person and possesses landed property measuring Ac. 3.537 hectares recorded in Khata No. 208/35 of Mouza-Motu and also cultivates Ac. 4.377 hectares of agricultural land recorded in the name of his father, late Md. Ismail Khan, in Khata No. 4 of Mouza-Baribanacha.
- (ii) The encroached land is classified as *Gramya Jungle*, which is not leasable under law.
- (iii) Section 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines "other traditional forest dweller" as a member or community residing in and depending on forest land for at least three generations prior to 13.12.2005, with "generation" defined as twenty-five years. On this basis, the petitioner does not qualify as a traditional forest dweller and is not entitled to settlement of any forest land under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- (iv) The petitioner failed to adduce any documentary or oral evidence supporting his claim. Consequently, assessment and penalty were imposed, and eviction notices in Form-B and subsequently Form-J were issued under the provisions of the Odisha Prevention of Land Encroachment Act, 1972.

  
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Motu



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- (v) The petitioner neither preferred an appeal before the Sub-Collector, Malkangiri, nor vacated the encroached land as directed. His claim was not recommended by the Grama Sabha or the Forest Rights Committee of village Baribancha, nor was it approved by the Sub-Divisional or District Level Committees constituted under the the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Hence, the present writ petition is stated to be not maintainable either in fact or in law.
- (vi) The petitioner does not belong to a Scheduled Tribe community and is not a traditional forest dweller. Accordingly, he has no locus standi to claim rights over forest land under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or the Rules framed thereunder. Upon verification, the Sub-Collector, Malkangiri, found him ineligible for settlement of forest land but nevertheless afforded an opportunity to produce supporting documents or certificates on 21.06.2019 at 10:00 A.M. before the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri. The petitioner, however, failed to produce any such evidence.
- (vii) The eviction order was passed lawfully, as the petitioner was found to have encroached upon Ac. 3.000 hectares of forest land in Mouza-Baribancha under Motu Tahasil. He neither appeared for further enquiry nor submitted any document substantiating his entitlement for recognition as a traditional forest dweller.
- (viii) The application for settlement of forest land had already been rejected by the Sub-Collector, Malkangiri, and no subsequent application is

  
Tahasildar  
Motu



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pending before the Executive Magistrate-cum-Tahasildar, Motu, Malkangiri, in respect of the same subject matter.

- (ix) Pursuant to the report of the Revenue Inspector, Motu, regarding encroachment of Government land by the petitioner in Mouza-Baribancha, Encroachment Case No. 01 of 2022 was registered. A show-cause notice under Section 9 of the Odisha Prevention of Land Encroachment Act, 1972 was issued, fixing 25.05.2022 for hearing. During the hearing, the petitioner is stated to have admitted the encroachment. Consequently, penalty was imposed, and the Revenue Inspector was directed to carry out eviction of the encroached land.

#### IV. COURT'S REASONING AND ANALYSIS:

6. Heard learned counsel for the Parties and perused the materials placed on record.
7. The primary question that arises for consideration before this Court is whether the petitioners have established any enforceable right or entitlement under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder, so as to warrant interference with the impugned notices issued by the Sub-Collector and the Tahasildar, Malkangiri.
8. Ancillary to this question is whether the procedure prescribed under Rule 12-A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 was duly followed, and whether the proceedings initiated under the Odisha Prevention of

**Tahasildar  
Motu**



Land Encroachment Act, 1972 suffer from any jurisdictional or procedural infirmity.

9. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was enacted to recognize and vest the forest rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in forest lands for generations, but whose rights were not previously recorded.
10. Section 2(c) defines "forest dwelling Scheduled Tribe" and Section 2(o) defines "other traditional forest dweller," requiring proof of residence in and dependence upon forest land for at least three generations, each generation being twenty-five years, prior to 13.12.2005.
11. Section 6 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes a detailed three-tier procedure for recognition of rights, commencing with the Gram Sabha, whose recommendation is scrutinized successively by the Sub-Divisional Level Committee and the District Level Committee.
12. Rule 12-A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 operationalizes this process and requires joint verification by the Revenue, Forest, and Tribal Welfare Department officials, who must sign the verification report with their designations, date, and remarks. Sub-rule (3) of Rule 12-A further mandates that any decision modifying or rejecting a claim must be communicated personally to the claimant, enabling an appeal within the prescribed period.
13. The admitted position in the present factual matrix is that the land in question, measuring Ac. 3.000 hectares situated in Mouza-Baribanchara,



is classified as *Gramya Jungle*, a category of forest land which is neither transferable nor leasable. It is further undisputed that the petitioner is not a member of a Scheduled Tribe, and that the land in question stands recorded in Government khata.

14. The petitioners' claim of long possession extending for over a century, though asserted, remains unsupported by any contemporaneous evidence. Apart from a ROR allegedly issued in 1973 for Ac. 75 of land in the same mouza, no document evidencing occupation, cultivation, or dependence on the disputed *Gramya Jungle* land for three generations prior to 13.12.2005 has been produced. Mere assertion of ancestral possession or cultivation, in absence of supporting documentary or oral evidence, cannot establish entitlement under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The burden of proving eligibility under Section 2(o) squarely rests upon the petitioners.
15. The materials on record further indicate that the petitioners were issued notices and were given an opportunity to appear before the Tahasildar, Motu, on 21.06.2019. They admittedly appeared and submitted certain documents but did not produce any cogent proof of eligibility or of continuous occupation for the required period. The authorities, upon verification, found that the petitioner owns and cultivates substantial land in Mouza–Motu and Baribanacha and hence does not qualify as a landless person or as a traditional forest dweller dependent solely on forest land for livelihood.

**Tahasildar  
Motu**



16. The Sub-Collector, Malkangiri, thereafter rejected the petitioner's claim and directed initiation of proceedings under the Odisha Prevention of Land Encroachment Rules, 1985.
17. The encroachment case, instituted under Rule 3 of the Odisha Prevention of Land Encroachment Rules, 1985, culminated in assessment of penalty and issuance of eviction notice in Form-B followed by Form-J. The petitioner, despite service of notice, did not file any appeal under Section 12 of the Odisha Prevention of Land Encroachment Act, 1972, which provides an efficacious statutory remedy.
18. The petitioners' contention that the procedure under Rule 12-A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 was not followed cannot be accepted in view of the materials on record. The records disclose that notice was issued, opportunity was afforded, and the claim was considered in accordance with the prescribed process. There is no material to indicate that the authorities acted beyond their jurisdiction or in violation of the principles of natural justice.
19. Even assuming some procedural lapse, it is settled law that where statutory authorities have considered the matter on merits and afforded adequate opportunity of hearing, a mere technical irregularity would not vitiate the proceedings, unless prejudice is shown. The petitioners have not demonstrated any prejudice caused by the alleged non-compliance.

**Tahasildar  
Motu**



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20. Further, it is trite that where an alternative and efficacious statutory remedy is available, this Court ordinarily refrains from exercising its jurisdiction under Article 226 of the Constitution.

21. In *Radha Krishan Industries v. State of H.P.*<sup>1</sup>, the Supreme Court clearly elucidated the principles related to the scope of Article 226 in light of the doctrine of exhaustion of alternative remedy, as replicated hereinunder:

- "27. The principles of law which emerge are that:*
- 27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*
- 27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*
- 27.3. Exceptions to the rule of alternate remedy arise where :*
  - (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;*
  - (b) there has been a violation of the principles of natural justice;*
  - (c) the order or proceedings are wholly without jurisdiction;*
  - or (d) the vires of a legislation is challenged.*
- 27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*
- 27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*

<sup>1</sup> (2021) 6 SCC 771.

**Tahasildar  
Motu**



Signature Not Verified  
Digitally Signed  
Signed by: BHABAGRAHI JHANKAR  
Reason: Authentication  
Location: ORISSA HIGH COURT, CUTTACK  
Date: 06-Nov-2025 18:03:14

27.6. *In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*"

22. The petitioners could have preferred appeals before the higher committees under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or before the competent authority under the Odisha Prevention of Land Encroachment Rules, 1985. In the absence of any exceptional circumstance such as violation of natural justice, lack of jurisdiction, or manifest illegality, a writ petition is not maintainable.
23. This Court also notes that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 confers recognition of pre-existing rights rather than creation of new entitlements. It is a beneficial legislation but not one intended to regularize post-2005 encroachments or confer rights on non-tribal cultivators without demonstrable historical dependence on forest land.
24. The classification of the land as *Gramya Jungle* is undisputed. Such land forms an integral part of forest land vested in the State and held under Government ownership. No right, title, or interest can accrue in such land by mere possession, irrespective of the duration of occupation. It is well settled that possession over Government or forest land, however longstanding, cannot mature into ownership or confer any legally enforceable right. Recognition of such possession would defeat

**Tahasildar  
Motu**



the public trust doctrine and run contrary to settled principles governing the protection of common and forest lands.

**V. CONCLUSION:**

25. In light of the above discussion, this Court is of the considered view that the petitioners have failed to substantiate any right under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. The authorities appear to have acted within the bounds of their statutory powers and have afforded reasonable opportunity to the petitioners. The impugned orders and notices do not suffer from any illegality, perversity, or procedural impropriety warranting interference under Article 226 of the Constitution.
26. Accordingly, the W.P.(C) No.14868 of 2022 stands **dismissed** as being devoid of merit.
27. The connected Writ Petitions are also dismissed, accordingly.
28. Interim order, if any, passed earlier in any of the above-mentioned Writ Petitions stands vacated.

(Dr. Sanjeeb K Panigrahi)  
Judge

Orissa High Court, Cuttack,  
Dated the 31<sup>st</sup> Oct., 2025.

  
Tahasildar  
Motu

- 22 -

ANNEXURE-E/3 Serial 152



ଓଡ଼ିଶା ସରକାରଙ୍କ କାର୍ଯ୍ୟାଳୟ, ମୋତୁ  
OFFICE OF THE TAHASILDAR, MOTU

District: MALKANGIRI  
Pin: 764087  
E-mail: tah.motu-  
od@nic.in

Letter No. 229/2026

Date. 30.01.2026

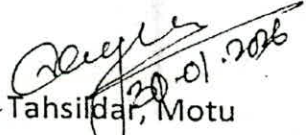
**NOTICE**

To,

Md. Hasam Khan (WPC Case No. 14868)

Village- Baribanchara.

You are informed that, The Hon'ble High Court Odisha has dismissed your WPC case No. 14868/2022 vide his letter No.52779 on Dated.7.11.2025. Therefore you are directed to vacate the occupied govt. land bearing EC case no.01/2022-23 on or before 09.02.2026.

  
A Tahasildar, Motu

Memo No. 230/2026

Date. 30.01.2026

Copy forwarded in duplicate to the Revenue Inspector, Motu to serve with dated acknowledgement to Md. Hasam Khan and return the served copy to this office for further action at this level.

  
Tahasildar, Motu

Recd.

Md. Khairulla

  
Tahasildar  
Motu

- 28 -

ଓଡ଼ିଶା ସରକାରଙ୍କ କାର୍ଯ୍ୟାଳୟ, ମୋଟୁ  
OFFICE OF THE TAHASILDAR, MOTU

District: MALKANGIR 153  
Pin: 764087  
E-mail: tah.motu-  
od@nic.in

Letter No. 243/2026

Date. 31.01.2026

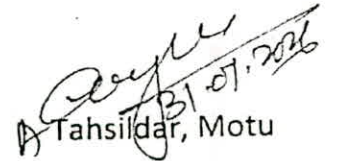
NOTICE

To,

**Md. Masoom Khan (WPC Case No. 14867)**

Village- Baribancha.

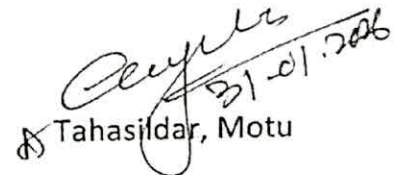
You are informed that, The Hon'ble High Court Odisha has dismissed your WPC case No. 14867/2022 vide his letter No.52779 on Dated.7.11.2025. Therefore you are directed to vacate the occupied govt. land bearing EC case no.02/2022-23 on or before 09.02.2026 :

  
Tahasildar, Motu

Date.31.01.2026

Memo No. 244/2026

Copy forwarded in duplicate to the Revenue Inspector, Motu to serve with dated acknowledgement to Md. Masoom Khan and return the served copy to this office for further action at this level.

  
Tahasildar, Motu

Recd  
Md. Khairulla



  
Tahasildar  
Motu

District: MALKANGIRI  
Pin:764087  
E-mail: tah.motu-  
od@nic.in

ଓଡ଼ିଶା ସରକାରଙ୍କ କାର୍ଯ୍ୟାଳୟ, ମୋଟୁ  
OFFICE OF THE TAHASILDAR, MOTU

Letter No. 245/2026

Date. 31.01.2026

**NOTICE**

To,

**Md. Jamal Khan (WPC Case No. 14870)**

Village- Baribancha.

You are informed that, The Hon'ble High Court Odisha has dismissed your WPC case No. 14870/2022 vide his letter No.52779 on Dated.7.11.2025. Therefore you are directed to vacate the occupied govt. land bearing EC case no.03/2022-23 on or before 09.02.2026.

*[Signature]*  
31.01.2026  
Tahsildar, Motu

Memo No. 246/2026

Date.31.01.2026

Copy forwarded in duplicate to the Revenue Inspector, Motu to serve with dated acknowledgement to Md. Jamal Khan and return the served copy to this office for further action at this level.

*[Signature]*  
31-01-2026  
Tahsildar, Motu

Recd.  
Md. Khairulla

*[Signature]*  
Tahsildar  
Motu

- 28 -

ଓଡ଼ିଶା ସରକାରଙ୍କ କାର୍ଯ୍ୟାଳୟ ମୋତୁ

Dist.: MALKANGIRI  
Pin : 764087  
E-mail : lah.motu-od@nic.in



## OFFICE OF THE TAHASILDAR, MOTU

No. 642 /2026

Date: 23/03/2026

To

The IIC, Police station, Motu.

Sub: Regarding deployment of police force on the day of eviction of Govt. Land relating to WPC Case No 14867, 14868 and 14870 of 2022-23 at Baribecha.

Ref: Letter No 52779 dt 7.11.2025 of Advocate General Odisha Cuttack  
Letter No 24/2026 dt 23.03.2026 of Revenue Inspector, Motu.


Sir,

With reference to the letter cited above on the subject, I am to intimate that the eviction process of Ismail Nagar at Baribacha Mouza under Motu Tahasil will be conducted on 26.03.2026 at Baribanacha Village as per letter No 52779 dt 7.11.2025 of Advocate General Odisha, Cuttack.

I would therefore request you to deploy police force on 26.03.2026 at Baribanacha village for maintenance of law and order at the time of eviction of Govt. land.

This is for favour of your kind information and necessary action.


Yours faithfully,

  
23/03/2026  
TAHASILDAR, MOTU

Date: 23.03.26

Memo No 643 /26


Copy submitted to the S.D.P.O, Malkangiri for favour of kind information and necessary action.

  
23/03/2026  
TAHASILDAR, MOTU



**Tahasildar  
Motu**

Received

  
SI Motu  
Dt-23/03/2026

OFFICE OF THE SUB-COLLECTOR & SUB-DIVISIONAL MAGISTRATE,  
MALKANGIRI

No. 2440 / VI-1/2026

Date. 02.04.2026

ORDER

In pursuance to Memo No.6326 (DIB), dated.25.03.2026 of Superintendent of Police, Malkangiri, the following officers are hereby deployed as Executive Magistrate on dated.05.04.2026 to maintain law and order situation during Eviction of Govt. Land at Baribanacha under Motu Tahasil.

| Sl No. | Name & Designation of the Officer   |
|--------|---|
| 01     | Smt. Lipina Dash, OAS, (JB), Deputy Collector, Sub-Collector's Office, Malkangiri |
| 02     | Sri Rama Krishna Satyaraj Guru, OAS, (JB), Tahasildar, Kalimela                   |
| 03     | Sri Arjun Pradhan, OAS, (JB), Tahasildar, Motu                                    |
| 04     | Sri Swayam Sidh Rout, OAS, (JB), Deputy Collector, Collectorate, Malkangiri       |

*[Signature]*  
Sub-Divisional Magistrate  
Malkangiri.

Date. 02.04.2026

Memo no. 2441 /2026

Copy to Executive Magistrate concerned.  
Copy to Tahasildar, Motu for information and necessary action.  
Copy submitted to the Superintendent of Police, Malkangiri for kind information and necessary action.

Copy submitted to the Collector & District Magistrate, for favour of kind information and necessary action.

*[Signature]*  
Tahasildar  
Motu

*[Signature]*  
Sub-Divisional Magistrate  
Malkangiri.

CONFIDENTIAL

ଉପ-ଜିଲ୍ଲାପାଳ ତଥା ଉପଖଣ୍ଡ ଦଣ୍ଡାଧିକାରୀଙ୍କ କାର୍ଯ୍ୟାଳୟ, ମାଲକାଙ୍ଗିରି  
OFFICE OF THE SUB-COLLECTOR & SUB-DIVISIONAL MAGISTRATE,  
MALKANGIRI

No. 2442 N-01/2026 (Judl.)  
To,

Date. 02/04/2026.

The Superintendent of Police,  
Malkangiri.

Subject: Requisition for deployment of Police Force for Eviction Proceeding at Baribanacha on 05.04.2026.

Sir,

In inviting a kind reference to subjected above, I am to inform you that a major **eviction proceeding** is scheduled to be carried out by the Tahasildar, Motu at **Baribanacha** on **05.04.2026** starting from **9:00 AM** onwards. In view of the scale of the enforcement drive and the high probability of public resistance or law and order issues, you are requested to kindly provide adequate security cover for the safety of the demolition team and government officials.

Further, you are requested to deploy the following :

1. **Minimum 03 (Three) section of Police Force or as per local assessment.**
  2. Adequate **Female Police Personnel** to handle women protesters and maintain decorum during the process.
  3. Necessary **Riot Control Gear** and supervision by senior police officers.
- The force may kindly be directed to be stationed at the site by **8:00 AM sharp** for the smooth execution of the eviction process.

Yours faithfully,

*[Signature]*  
Sub-Collector & SDM,  
Malkangiri 02-04-2026

Memo No. 2443 /2026

Dated . 02/04 /2026

Copy submitted to the Collector & District Magistrate, Malkangiri for favour of kind information.  
Copy to the Tahasildar, Motu for information and necessary action.

*[Signature]*  
Tahasildar  
Motu

*[Signature]*  
Sub-Collector & SDM  
Malkangiri 02-04-2026



*[Signature]*  
Tahasildar  
Motu



RCW5+MVG, Baribancha, Odisha  
764087, India

05 Apr 2026 10:00 AM



  
Tahasildar  
Motu



RCW5+MVG, Baribancha, Odisha  
764087, India

05 Apr 2026 10:47 AM

-X-



Tahasildar  
Motu



RCW6+M27, Baribanchara, Odisha 764087,  
India

05 Apr 2026 10:08 AM



*[Signature]*  
**Tahasildar  
Motu**



RCW5+MVG, Baribancha, Odisha  
764087, India

05 Apr 2026 11:16 AM



Time: 17-02-2026 12:17  
Note: Baribancha Ismail Nagar

Powered by NoteCam



Time: 20-02-2026 16:29  
Note: Baribancha Ismail Nagar

Powered by NoteCam

  
Tahasildar  
Motu

-X-



Latitude: 17.846209  
 Longitude: 81.409641  
 Elevation: 56.8±2.73 m  
 Accuracy: 6.585 m  
 Time: 04-09-2026 16:38  
 Note: eviction from govt land at barbecha on 05.04.2026

Powered by NoteCam

*[Signature]*  
 Tahasildar  
 Motu



RCW5+MWG, Baribanchna, Odisha  
 764087, India  
 05 Apr 2026 11:16 AM

- 31 -



Latitude: 17.846481  
Longitude: 81.40975  
Elevation: 53.93±7.74 m  
Accuracy: 9.794 m  
Time: 04-09-2026 16:37

Note: eviction from govt land at baribechea on 05.04.2026

Powered by NoteCam

Tahasildar  
Motu



Latitude: 17.846046  
Longitude: 81.409547  
Elevation: 56.07±2.5 m  
Accuracy: 6.192 m  
Time: 04-09-2026 16:38

Note: eviction from govt land at baribechea on 05.04.2026

Powered by NoteCam

- 35 -



Latitude: 17.847086  
Longitude: 81.410057  
Elevation: 55.62±4.12 m  
Accuracy: 5.825 m  
Time: 04-09-2026 16:34  
Note: eviction from govt lan

Powered by NoteCam

  
Tahasildar  
Motu



Latitude: 17.847049  
Longitude: 81.409945  
Elevation: 51.97±5.91 m  
Accuracy: 4.776 m  
Time: 04-09-2026 16:33  
Note: eviction from govt land at baribecha on 05.04.2026

Powered by NoteCam