

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

IN THE MATTER OF:

Sirin Tammana& othersApplicants

-Versus-

State of Odisha& othersRespondents

INDEX

SL No	DETAILS OF THE DOCUMENTS	PAGE
1	COUNTER AFFIDAVIT on behalf of Respondent No.5	1-21
1	<u>ANNEXURE-A/05</u> RoR of Bharatia Jeevan Bima Nigam (LIC office), Berhampur	22-23
2	<u>ANNEXURE-B/05</u> RoR of Sampadak Naveen	24-25
3	<u>ANNEXURE-C/05</u> order dated 22.11.1995 of Sub-Collector, Berhampur	26-32
4	<u>ANNEXURE-D/05</u> Judgment of Hon'ble High court of Odisha in WP (c) No. 16747/12	33-35
5	<u>ANNEXURE-E/05</u> Order dated 15.01.2020 of the Tahasildar, Berhampur	36
6	<u>ANNEXURE-F/05</u> report of the Revenue Inspector, Goilundi	37-39
7	<u>ANNEXURE-G/05</u> Copy of satellite image	40-41

Aswini K. Mahapatra
M.A. : : 8
NOTARY, BIRHAMPUR (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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09-11-2022

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

09-11-2021

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

FORM PART
NOTARY PUBLIC

09-11-2022

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

FORM PART
NOTARY PUBLIC

09-11-2022

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

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09-11-2022

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

FORM PART
NOTARY PUBLIC

09-11-2022

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

Dikhye Jyoti Parisa

FORM PART
NOTARY PUBLIC

09.11.2022

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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09-11-2022

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

FORM PART
NOTARY PUBLIC

09-11-2022

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 (Rakhita)	100	01.191	Jalasya II
		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

Dilip Jyoti Panison

FORM PART
NOTARY PUBLIC

09-11-2022

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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NOTARY PUBLIC

09-11-2022

Dibya Jyoti Parida

objectionable Govt. land within a period of 15 days.

(d) Challenging the direction of the Tahaildar, 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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NOTARY PHBI

09-11-2022

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

✓ Dikmy Jyeta Punisa

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NOTARY PUBLIC

09-11-2022

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 Parida

FORM PART

NOTARY PUBLIC

09-11-2022

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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FORM PART
NOTARY PUBLIC
09/11/2022

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

FORM PART
NOTARY PUBLIC

09-11-2022

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

FORM PART
NOTARY PUBLIC

09-11-2022

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 Jalsaya 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 Jalsaya/Adi kissam cannot be

Dilip Jyoti Parida

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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

B.B. Sahas
Advocate

✓ *Dhanya Jyoti Parise*
Deponent

FORM PART
NOTARY PUBLIC

09-11-2022

DECLARATION
The Deponent having been identified by
On *Balabhadra Sahas* Advocate
Berhampur affirms before me this the 201
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
09-11-2022

Dr. 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 9th day of November 2022.

✓ Dibya Jyoti Parida
VERIFICANT

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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						

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Last Publication Date:

Rent Fixation Date :

-28-

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						

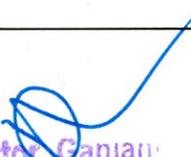
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Last Publication Date:

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	

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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 Sukla. w/o. Sujana Sukla.
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. Jogannath Dara.
At. Panda Colony, near Engineering School, Berhampur. -- Appellant
vs.
Tahasildar, Berhampur. Respondent

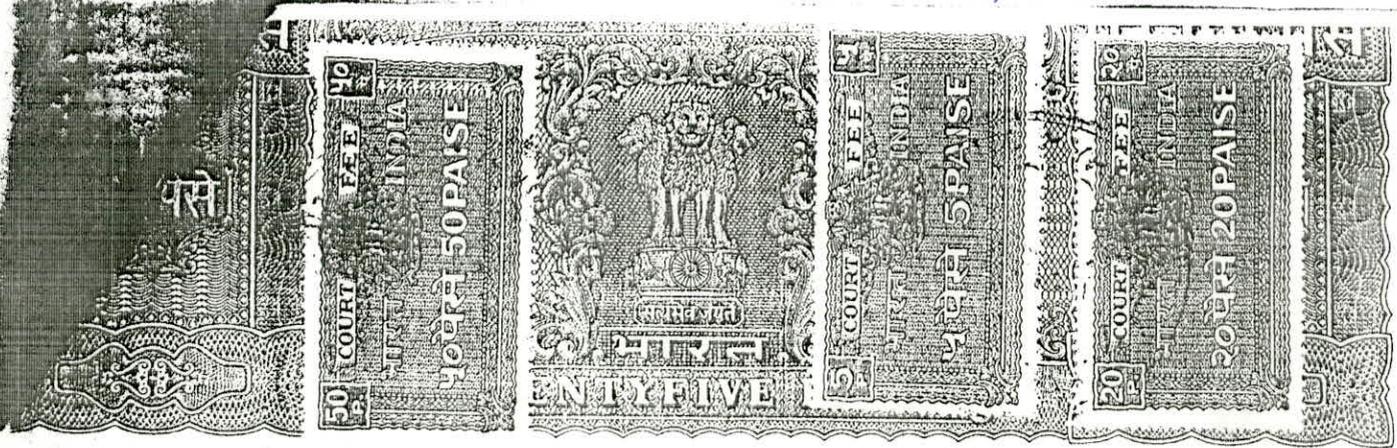
L.E.A. 50/95

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

Collected by Ganjam
Chattrapur



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

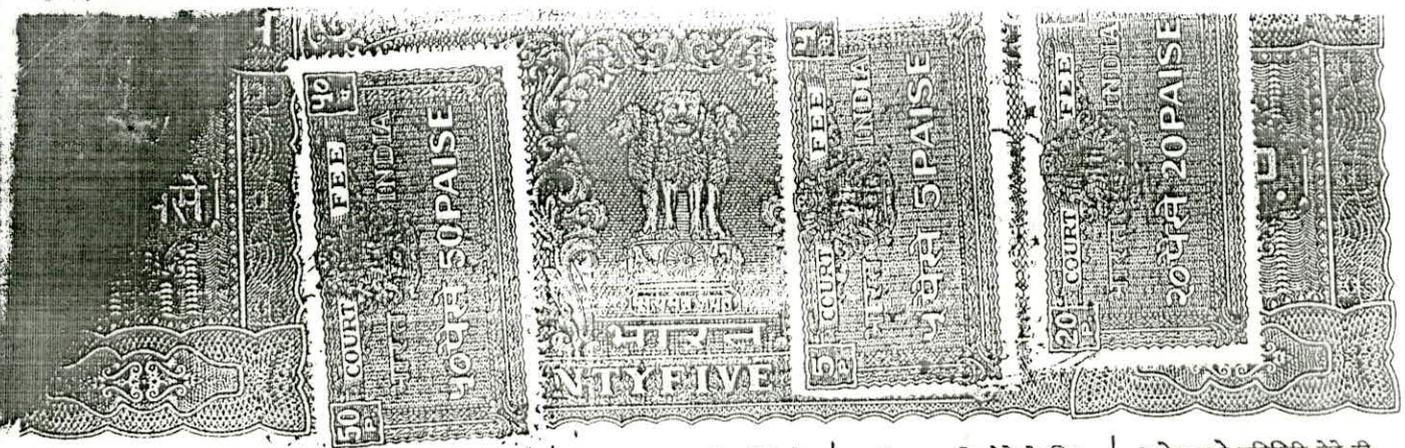
L.E.A 54/95

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. Ashwath 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
vs.
Tahasildar, Berhampur. - Respondent.

L.C.A 57/95

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

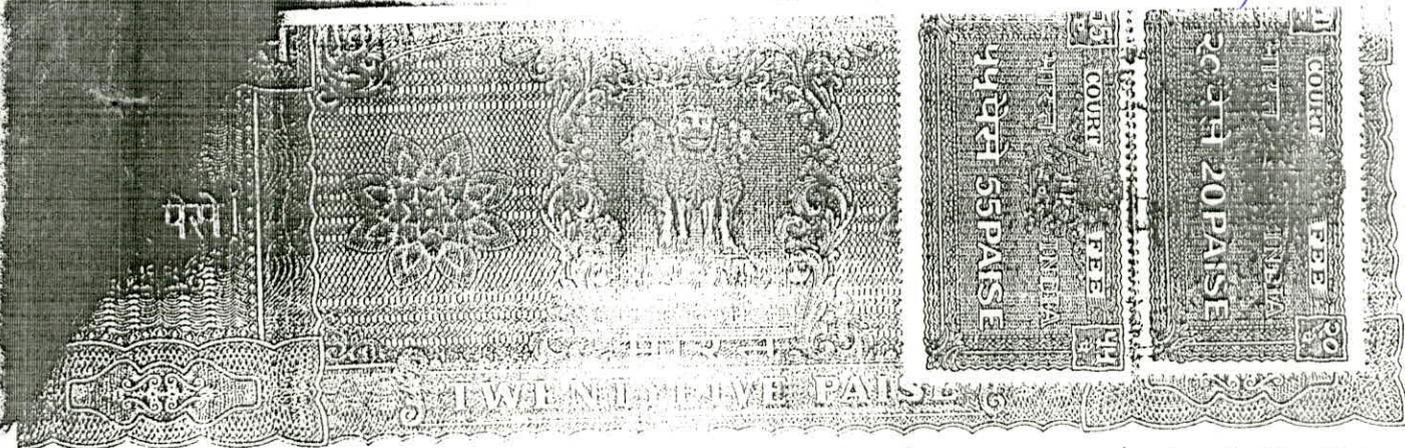
L.C.A 58/95

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

Collector, Berhampur
Chairman

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.

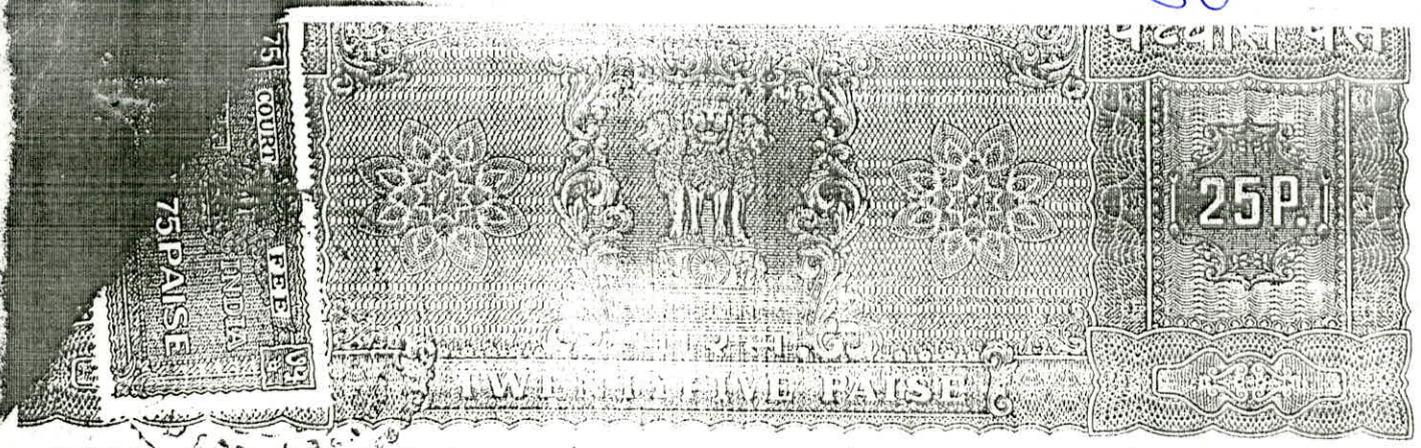


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि 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~~ ^{0.052}, 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.

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

Collector, Ganjam
Chaitanyar

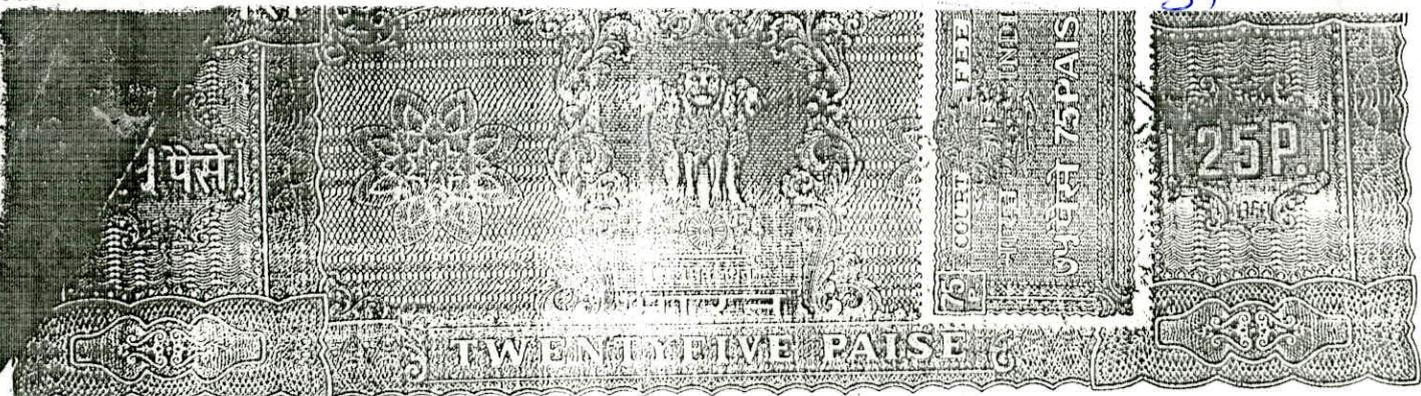


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि 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 (Ghara) classified under Rakhta 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

Collector, Sanjani Chattrapour



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 Berhampur 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.

Collector, Ganjam
Chandrapur



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

- 23 -

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

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 Panigraha & Others-Vrs.-The Collector, Ganjam & Others) for your information and necessary action.

Yours faithfully,

[Signature]
SUPERINTENDENT

Ac-Per

[Signature]

Rev
7763
S. Mahapatra

Collector, Ganjam
Chhatrapur
[Signature]

Sl. No.
of Order

Date of
Order

ORDER WITH SIGNATURE - 34 -

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

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.

Issue urgent certified copy.

True copy

Sd/- Bishwanath Rath, J.

*Dr. [Signature]
Supt*

Collector, Ganjam
Chandrapur



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
Chanspur

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

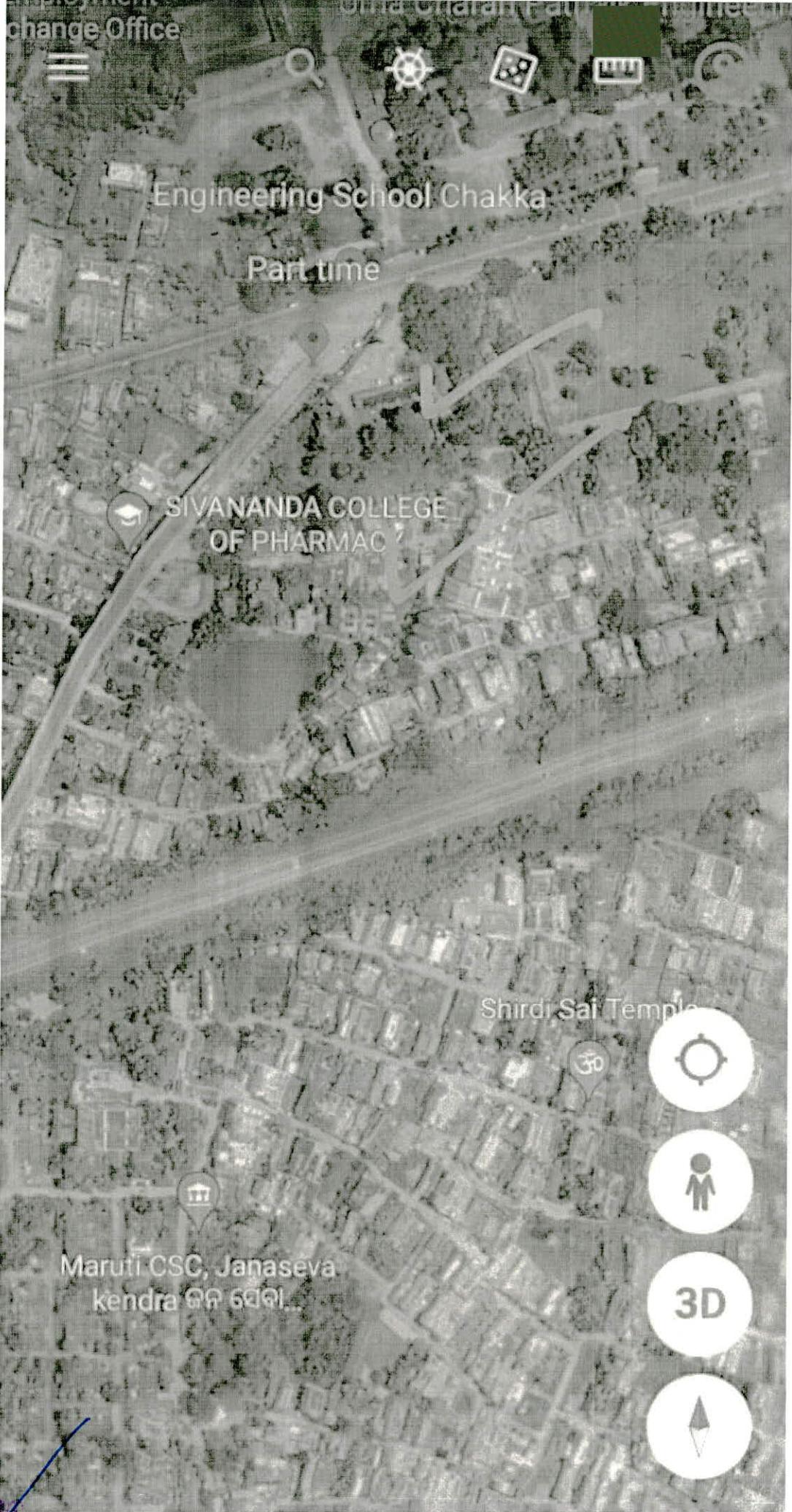
It is therefore requested that the encroachers may be booked under OPP Act, 1972 for eviction from the above plots as it is of objectionable Govt. land.

Yours faithfully,

M. Babura
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	0	088	0.0000	Possession of State Electrical Board, Berhampur
102	Adi	Bandha Adi	0613	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	0082	0.0000		
30	Gharabari I	Revenue Bangala	2525	0.0000		
100/132	Jalasaya II	Baula Bandha	0020	0.0000		
100	Jalasaya II	Baula Bandha	1191	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	0911	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

101/166	Jalasya 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	

Collector, Ganjam
Chaitani