



IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.2870 of 2026, W.P.(C) No.2855 of 2026,
W.P.(C) No.2872 of 2026, W.P.(C) No.2873 of 2026,
W.P.(C) No.2877 of 2026, W.P.(C) No.2888 of 2026,
W.P.(C) No.2891 of 2026, W.P.(C) No.2894 of 2026,
W.P.(C) No.2898 of 2026, W.P.(C) No.2901 of 2026,
W.P.(C) No.7205 of 2026, W.P.(C) No.10334 of 2026,
W.P.(C) No.11376 of 2026, W.P.(C) No.11381 of 2025,
W.P.(C) No.11404 of 2026, W.P.(C) No.11448 of 2026,
W.P.(C) No.11453 of 2026, W.P.(C) No.11458 of 2026 &
W.P.(C) No.11462 of 2026**

[Applications under Articles 226 & 227 of the Constitution
of India]

AFR

W.P.(C) No. 2870, 2873 & 2888 of 2026

Gargi Dash Petitioner

-Versus-

State of Odisha & others Opp. Parties

W.P.(C) No. 2855 & 7205 of 2026

Sonal Dash Petitioner

-Versus-

State of Odisha & others Opp. Parties

W.P.(C) No. 2872, 2877, 2891 & 2901 of 2026

Aditya Dash Petitioner

-Versus-

State of Odisha & others Opp. Parties



W.P.(C) No. 2894 of 2026

Annapurna Dash Petitioner

-Versus-

State of Odisha & others Opp. Parties

W.P.(C) No.2898 of 2026

Amarendra Dash Petitioner

-Versus-

State of Odisha & others Opp. Parties

W.P.(C) No.10334 of 2026

Nirupama Dash @ Mishra Petitioner

-Versus-

State of Odisha & others Opp. Parties

W.P.(C) No. 11376 of 2026

Dr. Pooja Dashmishra & Anr. Petitioners

-Versus-

State of Odisha & Anr. Opp. Parties

W.P.(C) No. 11381 of 2026

Pulin Bihari Mohapatra Petitioner

-Versus-

State of Odisha & Anr. Opp. Parties

W.P.(C) No. 11404 of 2026

Nrusingha Charan Mohanty Petitioner

-Versus-

State of Odisha & Anr. Opp. Parties



W.P.(C) No. 11448 of 2026

Padmaja Sahoo and Anr. Petitioners

-Versus-

State of Odisha & Anr. Opp. Parties

W.P.(C) No. 11453 of 2026

Dipak Mohanty Petitioner

-Versus-

State of Odisha & Anr. Opp. Parties

W.P.(C) No. 11458 of 2026

Susri Sangita Panda & Anr. Petitioners

-Versus-

State of Odisha & Anr. Opp. Parties

W.P.(C) No. 11462 of 2026

Pramod Kumar Mohanty Petitioner

-Versus-

State of Odisha & Anr. Opp. Parties

Advocate(s) appeared in these cases through virtual mode:

For Petitioner(s) : M/s. Debakanta Mohanty, A.K. Das
& S.K. Satapathy, Advocates.
[in W.P.(C) Nos. 2870, 2855, 2872,
2873, 2877, 2888, 2891, 2894,
2898, 2901 & 7205 of 2026]



Mr. B.S. Tripathy Sr. Advocate with
M/s. Atul Tripathy & A. Sahoo,
Advocates.
[in W.P.(C) Nos. 11376, 11381,
11404, 11448, 11453, 11458 &
11462 of 2026]

M/s. A.P. Bose, D. Sahoo, D.K.
Sethy, A. Prasad, S. Samantaray, A.
Sahoo, M.K. Pradhan, A. Purohit &
R.R. Purohit, Advocates
[in W.P.(C) No.10334 of 2026]

For Opp.Parties : Mr. S.N. Patnaik,
Addl. Government Advocate

Mrs. J. Sahoo,
Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

JUDGMENT
22nd May, 2026

SASHIKANTA MISHRA, J.

The correctness of change of nature of land of the petitioners from '*dakhal satwa sunya*' to '*pattadar*' and the claim of the petitioners for the same to be recorded as *sthitiban* are questions involved in all these writ applications. Since the facts and law involved are identical, all these writ applications were heard together and are



being disposed of by this common judgment. For brevity and convenience however, the facts of W.P.(C) No. 2870 of 2026 shall be considered and referred to.

CASE OF THE PETITIONER

2. The petitioner, Gargi Dash is the recorded owner of property covered under Plot No. 99/275/324 measuring Ac.1.00 decs. and Plot No. 99/275/325 measuring area Ac.1.00 decs. under Khata No.1155/103 in Tulasideipur Mouza of Bhubaneswar Tahasil. Having purchased the lands from the recorded owner, she got the same mutated in her name as per order passed in Mutation Case Nos. 8868/1992 and 8867/1992 respectively. The nature of the plots was also converted to homestead (*gharabari*) from agriculture as per orders passed under Section 8-A of the OLR Act in OLR Case No. 7028 of 2007. Accordingly, ROR was issued in her favour by the Tahasildar, Bhubaneswar mentioning the status as '*dakhal satwa sunya*'. According to the petitioner, depiction of the status of the land as above, is illegal as it ought to have been recorded as



‘*sthitiban*’ in view of the ratio decided by this Court in the case of ***Jagannath Sahu and others vs. State of Odisha and others***¹. However, the Government in an apparent attempt to overreach the aforesaid judgment, issued a notification on 02.07.2025, on the basis of which, the Tahasildar, Bhubaneswar in a *suo motu* proceeding changed the status of the lands in question from *dakhal satwa sunya* to *pattadar* vide order passed in Misc. Case No.10919 of 2025. This, according to the petitioner, is also illegal in view of the ratio decided by this Court in the case of ***Rinki Das @ Dhir vs State of Odisha and Others***², wherein it was held that the notification has no retrospective effect so as to be applied to previously published RORs. On such facts, the petitioner has approached this Court seeking the following relief:

“The petitioner therefore, most humbly prays that this Hon’ble Court would graciously be pleased to admit this writ petition, call for the records and after hearing the parties, allow the same by issuing a writ/writs in the nature of certiorari/mandamus declaring that the recording at Col. No.3 of the ROR (Annexure-3) as Pattadar status is illegal and similarly in the ROR (Annexure-1) as “Dakhal Satwa

¹ W.P.(C) No. 15360 of 2024, decided on 02.05.2025

² W.P.(C) No. 36211 of 2025, decided on 23.12.2025



Sunya” status is also illegal, hence the Tahasildar, Bhubaneswar be directed to correct such entry in the ROR (Annexure-3) and issue Sthitiban Patta to the petitioner in respect of the case land;

And pass any other or further direction as this Hon’ble Court may deem fit and proper;”

CASE OF THE STATE

3. The stand taken by the State as reflected in the counter affidavit filed by opposite party Nos. 4 and 5 is that originally, one Nabin Majhi, S/o- Bhajani Majhi was granted lease of Government land corresponding to Plot No.99/275/324 vide W.L. Case No.82/1973 for agricultural purpose. Similarly, one Chhaya Bewa, wife of Bharat Nayak was granted lease of plot No.99/275/325 vide WL Case No. 178/1988 for agricultural purpose. The petitioner, Gargi Dash purchased both the lands from the lessees and mutated the same in her favour vide Mutation Case Nos.8868/1992 and 8867/1992. RoRs were issued showing the status of the lands as ‘*dakhal satwa sunya*’ and not in ‘*sthitiban*’ status at any point of time in favour of the lessee. It is further stated that the judgment in **Jagannath Sahu** (supra) is not applicable to the facts of



the present case. The Additional Tahasildar, Bhubaneswar, acting on the notification dated 02.07.2025 initiated *suo motu* Misc. Case No. 10922/2025 and corrected the ROR from *dakhil satwa sunya* to *pattadar*. The aforesaid notification was issued by the State Government in exercise of its sovereign and statutory powers to rectify the illegality of recording leasehold lands wrongly as '*dakhil satwa sunya*' instead of '*pattadar*'. It is further stated that the notification dated 02.07.2025 is not a retrospective legislation but is a collective/clarificatory notification aimed at rectifying wrongful recording of Government land. Correcting an illegal entry in the ROR does not amount to taking away an accrued right but only removes an illegal benefit wrongly enjoyed by the petitioner. The error in the ROR does not create title or status.

The petitioner has filed a rejoinder to the counter affidavit. It is stated that recording of the status as '*dakhil satwa sunya*' in the ROR has been declared unlawful in the case of **Jagannath Sahu** (supra). The present case therefore, is squarely covered by such ratio. Moreover, the



Government has complied with several orders passed by this court in different cases and therefore, cannot take a different stand. Having regard to the judgment rendered by this Court in both **Jagannath Sahu** (supra) and **Chandra Prakash Rath vs. State of Odisha**³ it can be reasonably concluded that neither the noting of status as '*dakhal satwa sunya*' nor '*pattadar*' is sustainable in the eye of law and hence, the land is to be recorded as sthitiban.

SUBMISSIONS

4. Heard Mr. Debakanta Mohanty, learned counsel for the petitioners in W.P.(C) Nos. 2870, 2855, 2872, 2873, 2877, 2888, 2891, 2894, 2898, 2901 & 7205 of 2026, Mr. B.S. Tripathy, learned Senior Counsel with Mr. Atul Tripathy, learned counsel for the petitioners in W.P.(C) Nos.11376, 11381, 11404, 11448, 11453, 11458 & 11462 of 2026, Mr. A.P. Bose, learned counsel for the petitioner in W.P.(C) No.10334 of 2026; Mr. S.N. Pattnaik, learned Addl. Government Advocate and Mrs. J. Sahoo, learned Addl. Standing Counsel for the State in all the cases.

³ W.P.(C) No.31150 of 2025 decided on 14.11.2025



5. Considering the importance of the questions involved, this Court requested Senior Counsel, Mr. B. Bhuyan to assist the Court as *amicus curiae*. Another Senior Counsel, Mr. S.S. Das, being present in Court also rendered assistance. Both made their submissions independently.

6. Mr. D. Mohanty would argue that the position of law is well settled by the judgment passed in this Court in the case of **Jagannath Sahu** (supra) and **Chandra Prakash Rath** (supra). Referring to **Jagannath Sahu** (supra), Mr. Mohanty submits that this Court categorically held that the guidelines issued on 25.06.1990 titled '*Rayati Jami Record Kariba Pranali O Satwaa Satwa Niyamabali*' clearly provides that lands recorded under *bajyaapti sthitiban*, *dakhal satwa bisista* or *dakhal satwa sunya* status in undivided districts of Puri, Cuttack and Balasore should be recorded under *sthitiban* status. Accordingly, directions were issued. The petitioner unfortunately could not approach this Court for a similar order individually. The Government, on the other hand, came out with a



notification dated 02.07.2025 only to nullify the above referred judgment. Same was also interfered with by this Court in **Chandra Prakash Rath** (supra). According to Mr. Mohanty therefore, on a conjoint reading of both the judgments rendered by this Court, it would be evident that the status of the land has to be recorded as *sthitiban* and not *pattadar*. Even otherwise, recording of the status as *sthitiban* shall enure to the benefit of the State Government, inasmuch as it would receive much more revenue than from land recorded as '*dakhal satwa sunya*'. It would thus, in no way prejudice the State. He further submits that the petitioner's complete ownership over the land has been implicitly acknowledged by the State by allowing conversion of its *kisam* from agriculture to *gharabari* in a proceeding under Section 8-A of the Odisha Land Reforms Act. Therefore, recording of the land as '*dakhal satwa sunya*' or '*pattadar*' would impinge her right to alienate the property which would run contrary to the order allowing conversion.



7. Mr. B.S. Tripathy, learned Senior Counsel while making similar arguments as Mr. D. Mohanty, additionally refers to different provisions of the Odisha Tenancy Act, 1913, Odisha Land Reforms Act, 1960, Odisha Government Land Settlement Act, 1962 and Odisha Survey and Settlement Act, 1958 to submit that the change of the status of the land by the Tahasildar in a *suo motu* proceeding behind the back of the petitioner is completely illegal and contrary to the statutory provisions. On the basis of statutory provisions, Mr. Tripathy would submit that those categories of raiyats as defined under Section-4 of the Odisha Tenancy Act, 1913 are to be recorded under *raiyyati* status, which is heritable and transferable.

8. Mr. A.P. Bose, while supporting the submissions advanced by Mr. D. Mohanty and Mr. B.S. Tripathy, would submit that once the State authorities have recognized the *raiyyati* right by allowing mutation and conversion, it is no longer open to the authorities to depict the status of the land as '*dakhal satwa sunya*' or alter the same to '*pattadar*'. He also argues that entry in the ROR must



reflect the true character of the land and cannot run contrary to the rights already acknowledged by the State. Referring to the decisions in **Jagannath Sahu** (supra) and **Chandra Prakash Rath** (supra), Mr. Bose submits that lands recorded under '*dakhal satwa sunya*' status are to be corrected as '*sthitiban*'. He further argues that the notification dated 02.07.2025, being executive in nature, cannot override binding judicial authorities nor can it operate retrospectively so as to divest accrued rights or alter entries already published in the R.O.R. According to him, the suo motu alteration of the status of the land without notice and opportunity of hearing is against the principles of natural justice and the provisions governing correction of R.O.R. Mr. Bose further submits that the problem facing these persons is that because of depiction of the status of land as *dakhal satwa sunya* and *pattadar*, the registering authorities may not register any deed of sale executed in respect of the same. This, according to Mr. Bose amounts to placing undue restriction on the land holder's right over the property.



9. Mr. S.N. Pattnaik, learned Addl. Government Advocate and Mrs. J. Sahoo, learned Addl. Standing Counsel for the State have both addressed the Court by making the following submissions:

The case of the petitioners cannot be compared with the facts of **Jagannath Sahu** (supra) and **Chandra Prakash Rath** (supra). The most relevant factor is that the land was never recorded in the name of the vendor or lessee as '*sthitiban*' during any settlement operation like that of the petitioner in **Jagannath Sahu** (supra). The Tahasildar has acted entirely on the basis of the Government notification dated 02.07.2025, which seeks to correct the error caused by the previous notification and has not been interfered with. It is stated that the notification dated 28.01.2021 caused a lot of confusion among the field level officers, who wrongly recorded lands under '*dakhal satwa sunya*' status as '*sthitiban*'. This is contrary to paragraph-23 of the *Niyamabali*. For such purpose, the subsequent notification dated 02.07.2025 was issued with a view to rectify the error. Since the land is a



leasehold land, it can only be recorded as *pattadar* and not *sthitiban* under any circumstances.

10. Learned Senior Counsel Mr. S.S. Das argues that the letters dated 28.01.2021 and 02.07.2025 are inter-office communications having no force of law within the meaning of Article 13 of the Constitution of India. As such, they cannot take away accrued or vested right of the citizens. Prior to amendment of Section 8-A of the OLR Act, even a *sthitiban* property could be recorded as *pattadar* but the same is no longer permissible in view of repeal of the earlier provision. On the other hand, leasehold status can be converted to *sthitiban*. Mr. Das therefore, submits that the authorities have apparently misconstrued the statutory provisions to take away valuable rights of land owners, like the petitioners. Moreover, the term '*pattadar*' inherently means a person in whose favour a '*patta*' or ROR has been issued and therefore, cannot or should not be treated as depiction of the leasehold status.



11. Learned *amicus curiae*, Mr. B. Bhuyan refers to the provisions of Odisha Tenancy Act, 1913 Odisha Land Reforms Act, 1960 OGLS Act, 1962 and Transfer of Property Act, 1882. He also refers to the Dalziel Report of Final Settlement in course of his argument. He submits that if the legislative intent behind these statutory provisions are to be considered, it would be seen that the same is to confer on the land owner both heritable and transferable rights. He, therefore, submits that there is no statutory recognition of conversion of the status to *pattadar* as against *sthitiban*. Therefore, the authorities should record the land of the lessee or his transferee either in *raiyyati* or *sthitiban* status.

ANALYSIS AND FINDINGS

12. From the rival contentions noted above, it is evident that the dispute revolves around recording of the status of the land in the record of right. Be it noted that the status of the land is termed '*satwa*' in Odia. Lands can be classified into different *satwas*, such as *sthitiban*,



bajyapati sthitiban, dakhil satwa bisista, dakhil satwa sunya etc. Of these, *dakhil satwa sunya, sthitiban* and *pattadar* are relevant in the present context. In the 'Final Report on the Revision Settlement of Orissa (1922-1932 AD)' by W.W. Dalziel, ICS these terms are defined in the Glossary in Appendix XXVIII as follows:

"Dakhil satwa sunya – Status of non-occupancy raiyat"

Dakhil satwa bisista- Status of an occupancy raiyat

Sthitiban- Status of settled raiyat."

13. As per the Revenue Dictionary (M.M. Publications),
'*dakhil satwa sunya*' means:

"Non-occupancy raiyat, including the persons who have gained possession of the land through lease or otherwise, but are yet to acquire the status of the settled raiyat."

[Emphasis added]

Sthitiban, as per the dictionary means:

"A cultivator who has acquired the right to hold the land for the purpose of agriculture and has become a settled raiyat of the village in which the land stands, by virtue of holding any land in that village for a period of 12 years continuously; has acquired a permanent right on the land alongwith the rights of heritability and transferability and other benefits, as assigned to such a raiyat under the provisions of Orissa Tenancy Laws."



So, the basic difference between *sthitiban* and *dakhal satwa sunya* is of occupation. The right of non-occupancy raiyats are inferior to that of occupancy raiyats. It follows that permanent right over the land, including the right of heritability and transferability, to an occupancy raiyat (*sthitiban*) is ordinarily not available to a non-occupancy raiyat (*dakhal satwa sunya*). This is also the settled position of law. Reference in this regard can be made to the judgment of this Court in the case of **Chandrakanta Pani vs. Kamalalochan Pani and others**⁴, where, the following was held:

“7. It is also well established that non-occupancy rights or under-raiyat rights are neither heritable nor transferable except by custom (vide in cases of G. Gurumurthy v. State reported in (1967) 33 Cut LT 1128 (1134) (AIR 1968 Orissa 72); Biseswar Giri v. Hara Prasad Behera reported in AIR 1967 Orissa 86 and Bhikari Bhoi v. Jagannath Mohapatra reported in (1961) 3 Orissa JD 331). The lessees under Exhibit 5 were mere non-occupancy tenants and such rights, in the absence of custom of which there is neither any allegation nor proof, could not be alienated in favour of defendants 5 and 6 under Exhibit 4, registered sale deed dated 14-2-1955 and Exhibit 2, deed of relinquishment dated 25-3-1959. Thus defendants 5 and 6 having had no occupancy right to convey and there being non-recipients of any non -occupancy tenancy right which is nontransferable, the plaintiff acquired no interest

⁴ 1972 SCC OnLine Ori 91: AIR 1973 ORI 65



from them under Exhibit 3, registered sale deed dated 27-4-1959.”

14. *Pattadar*, on the other hand, means a lessee of resumed pre-settlement *inams* on written leases and also lessee of *khasmahal* lands. So, basically the term '*pattadar*' refers to leasehold lands.

15. We may now refer to certain statutory provisions governing the field. The earliest enactment in this context, being the Odisha Tenancy Act, 1913, it would be profitable to examine some of the provisions contained therein. Section 3(23) defines '*tenant*' to mean, a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person. Chapter-II of the said Act, deals with classes of tenants. Section-4 is reproduced below:

“4. Classes of tenants. - *There shall be, for the purpose of this Act, the following classes of tenants, namely:*

(1) tenure-holders, including under-tenure-holders,

(2) raiyats,

(3) under-raiyats, that is to say, tenants holding, whether immediately, or mediately, under raiyats, and



(4) *chandnadars; and the following classes of raiyats, namely;*

(a) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(c) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy”

It can be easily inferred that the term ‘tenant’ is the genus while ‘raiyyat’ is the species. It also makes a distinction between occupancy and non-occupancy raiyats. The term ‘raiyyat’ has further been defined under Section 5(2) as follows:

“Raiyyat” means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family or by hired servants, or with the aid of partners, and includes also the successors-in-interest or persons who have acquired such a right.”

There is a further concept of ‘settled raiyyat’. Section 23 defines it in the following manner:

“23. Definition of ‘Settled raiyyat’.

(1) Every person who, for a period of twelve years whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyyat of that village.



(2) A person shall be deemed, for the purposes of this Section, to have continuously held land in a village, notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purpose of this Section, to have held as a raiyat any land held as a raiyat by person whose heir he is.

(4) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purpose of this Section, to have been held as a raiyat by each such co-sharer.

(5) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(6) If a raiyat recovers possession of land under Section 98, he shall be deemed to have continued to be a settled raiyat, notwithstanding his having been out of possession more than a year.

(7) If, any suit or other proceeding under this Act, or under any other law, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purpose of this Section until the contrary is proved or admitted, that he had for twelve years continuously held that land or some part of it as raiyat.”

[Emphasis added]

In view of sub-section (1), even a person holding land under a lease could become a settled raiyat on the fulfilment of the conditions laid down therein.

16. Section 24 provides that settled raiyats have occupancy right. A person holding land under a lease can



also become a settled raiyat thereby, acquiring a superior right.

17. We may now refer to the provisions of Odisha Land Reforms Act, 1960. The Odisha Land Reforms Act was enacted in the year 1960 as an Act to reform the law relating to land tenures and to provide for matters connected therewith or incidental thereto. It is stated to be a progressive legislation relating to agrarian reforms and land tenures. Section 2 (26) defines 'raiyyat', as a person who is deemed to be a raiyat as such under the provisions of this Act. Section 2(31) defines 'tenant' as follows:

“(31) ‘tenant’ means a person who has no rights in the land of another but under the system generally known as Bhag, Sanja or Kata or such similar expression as under any other system, law, contract, custom or usage personally cultivates such land on payment of rent in cash or in kind or in both or on condition of delivery to that person –

(a) either a share of the produce of such land; or

(b) the estimated value of a portion of the crop raised on the land, or

(c) a fixed quantity of produce irrespective of the yield from the land; or

(d) produce or its estimated value partly in any of the ways described above and partly in another”



Evidently, there is a world of difference between the definition of *tenant* under the Odisha Tenancy Act and the Odisha Land Reforms Act. Under the latter Act, the position of *tenant* is less comprehensive and inferior to that under the former.

18. Section 4 defines 'raiyyats'. Clause (f) of sub-Section (1) reads as follows:

“a person with whom land has been settled for agricultural purposes after the commencement of this Act under a lease from land-holder, or under permanent lease from Government.”

[Emphasis added]

Section 6 deals with rights of raiyyats and is reproduced below:

“6. Rights of raiyyats and prohibition of letting –
(1) The rights of a raiyat in any land held by him as such shall be permanent, heritable and transferable.
(2) Notwithstanding anything in sub-section (1) but subject to the provisions of sub-section (3) a transfer after the commencement of this Act by way of a lease of any land held by a raiyat shall be void and inoperative.
(3) It shall be lawful for a raiyat who is a person under disability or is a privileged raiyat to lease out his lands to any tenant.”

[Emphasis added]



An exception is carved out in Section 6-A, which is reproduced below:

“6-A. Temporary ban on transfer of land settled by Government- (1) *Notwithstanding anything contained in sub-section (1) of section 6, but subject to the provisions of sub-section (3) thereof, any transfer by a raiyat of any land which has been settled with him for agricultural purposes under a permanent lease from Government shall, if such transfer is made within a period of ten years from the date of such settlement without obtaining the previous permission in writing of the Revenue Officer, be void.*

(2) *No right, title or interest held by a raiyat in any such land as aforesaid shall, unless permission in writing is accorded by the Revenue Officer to that effect, be attached and sold in execution of a money decree passed against such raiyat.*

(3) *Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908 purports to transfer any such land within the period specified in sub-section (1), no registering officer appointed under that Act shall register any such document unless such document is accompanied by the written permission of the Revenue Officer for such transfer.*

(4) *Nothing in sub-section (1) or sub-section (3) shall apply to any transfer by way of mortgage executed in favour of any scheduled bank or in favour of any bank to which the Orissa Co-operative Societies Act, 1962 applies and nothing in sub-section (2) shall apply to a money decree obtained by any such bank.”*

Therefore, even a lessee can transfer the leasehold land after expiry of ten years from the date of lease without



obtaining permission. Section-7, though not entirely relevant, yet may be referred to point out the distinction between the right of a tenant and that of a raiyat. The right of raiyat is covered under Section 6 and 6-A referred above. Section 7, refers to the right of tenant and is reproduced below:

“7. Non-transferability and saving of the rights and liabilities of tenants – (1) The rights of a tenant in any land held by him as such shall be heritable, but shall not be transferable.

(2) Save as otherwise provided in this Act –

(a) no tenant in lawful cultivation of any land at the commencement of the Orissa Land Reforms (Amendment) Act, 1973 or at any time thereafter shall be liable to be evicted from such land by the landlord;

(b) no such tenant shall be bound to pay rent at a rate higher than the rate specified in section 13; and

(c) the rights, benefits, protection, privileges, obligations or liabilities of any tenant in lawful cultivation of any land at the commencement of the Orissa Land Reforms (Amendment) Act, 1973 as were existing immediately prior to such commencement shall not be liable to be modified or extinguished in any manner whatsoever.”

Thus, the right of a tenant in any land held by him shall be heritable but not transferable. This is the essential distinction between a tenant and a raiyat under the Odisha Land Reforms Act as compared to the Odisha Tenancy Act.



It may also be mentioned in passing that the Act permits conversion of agricultural land for purposes other than agriculture in the manner laid down in Section 8-A. Needless to mention, in view of the Section 3, this Act shall override all other enactments to the extent of any inconsistency or repugnancy and hence, the relevant provisions of the Odisha Tenancy Act shall no longer have any effect.

19. The next enactment to be considered is the Odisha Government Land Settlement Act, 1962 (in short, the 'OGLS Act'). Section-3 empowers the Government to settle Government land. Clause (a) of sub-Section (4) along with its explanation is reproduced below:

“(4) Notwithstanding anything to the contrary contained in the preceding subsections or in any law or any custom, practice or usage having the force of law-

(a) any land of the category of Khasamahal, Nazul, Gramkantha Parambok or Abadi, wherever situated and used for any purpose, may, on application, be permanently settled with heritable and transferable right with the person who is in occupation of such land either on the basis of lease or otherwise for a period of at least three years prior to the appointed date, in such manner and subject to payment of such amount to the Government as may be prescribed;



Explanation :- The word 'lease' includes sub-lease or subsequent lease by the lessee or the sub-lessee, as the case may be."

Thus, even if a land (of the categories referred to) is settled on the basis of lease, it can be permanently settled with the lessee with heritable and transferable right. Further, Rule-5-C of the OGLS Rules permits conversion of leasehold land into freehold on permanent basis with hereditary and transferable rights in urban areas of the State.

20. On a conjoint reading of the provisions of all the statutory enactments referred above, it can be reasonably inferred that the legislative intent, in so far as permanent land holdings are concerned is to allow such lands to be held with full rights of occupancy, along with right of heritability and transferability. This seems to have been implicitly acknowledged by the State Government also as reflected in the set of guidelines called, "*Rayati Jami Record Kariba Pranali O Satwaa Satwa Niyamabali* in 1990 (in short, '1990 Niyamabali'):

"1913 ମସିହାର ଓଡ଼ିଶା ପ୍ରଜାସ୍ୱତ୍ୱ ଆଇନର 6(ii) ଧାରା ଅନୁସାରେ ଯଦି କୌଣସି ସ୍ୱତ୍ୱଲିପିରେ ଜଣେ ବାଜ୍ୟାଧିକାର ବା ବାଜ୍ୟାଧିକାର ରକ୍ଷତ ବୋଲି ଦରଜ



କରାଯାଇଛି, ତାକୁ ରୟତ ବୋଲି ଧରିବାକୁ ପଡ଼ିବ । ଉକ୍ତ ଆଇନ ର 24 ଧାରା ଅନୁସାରେ ଜଣେ ଛିଡିବାନ ରୟତର ସେ ତାଷ କରୁଥିବା ଜମି ଉପରେ ଦଖଲ ସ୍ୱତ୍ତ୍ୱ ରହିବ । ଉକ୍ତ ଆଇନର 4 ଧାରା ଅନୁସାରେ ରୟତ ତିନି ପ୍ରକାର ଯଥା -ଚିରସ୍ଥାୟୀ ଜମା ରୟତ, ଦଖଲ ସ୍ୱତ୍ତ୍ୱ ବିଶିଷ୍ଟ ରୟତ, ଦଖଲ ସ୍ୱତ୍ତ୍ୱ ଶୂନ୍ୟ ରୟତ । କେତେକ ସ୍ଥଳରେ ଚିରସ୍ଥାୟୀ ଜମା ରୟତକୁ “ଚିରସ୍ଥାୟୀ ଜମା ବିଶିଷ୍ଟ” “ବାହେଲ ଚିରସ୍ଥାୟୀ ଜମା” ପ୍ରଭୃତି ନାମରେ ଦରଜ କରାଯାଇଛି ।

ଉପରୋକ୍ତ ବାକ୍ୟାଣ୍ଡି ଛିଡିବାନ, ଦଖଲ ସ୍ୱତ୍ତ୍ୱ ବିଶିଷ୍ଟ ଓ ଦଖଲ ସ୍ୱତ୍ତ୍ୱ ଶୂନ୍ୟ ସ୍ୱତ୍ତ୍ୱରେ ରେକର୍ଡ ହୋଇଥିବା ଜମିକୁ ବନ୍ଦୋବସ୍ତ ସମୟରେ ପୁରୀ, କଟକ ଓ ବାଲେଶ୍ୱର ଜିଲ୍ଲାରେ ଛିଡିବାନ ସ୍ୱତ୍ତ୍ୱରେ ରେକର୍ଡ କରାଯିବ । ଯଦି ଅନ୍ୟ କୌଣସି ଅଞ୍ଚଳରେ ଏହିଭଳି ସ୍ୱତ୍ତ୍ୱ ଦେଖିବାକୁ ମିଳେ ତେବେ ତାହା ରୟତି ସ୍ୱତ୍ତ୍ୱ ରେ ରେକର୍ଡ କରାଯିବ ।”

This is loosely translated as follows:

“Under Section 6(ii) of the Odisha Tenancy Act, 1913, if in any Record-of-Rights a person has been recorded as a Bajyaptidar or Bajyaptidar Raiyat, he shall be deemed to be a raiyat. Under Section 24 of the said Act, a settled raiyat shall have occupancy rights over the land cultivated by him. Under Section 4 of the said Act, raiyats are of three categories, namely: permanent tenure raiyats, occupancy raiyats, and non-occupancy raiyats. In some places, permanent tenure raiyats have been recorded under descriptions such as ‘permanent tenure holder’, ‘Bahel permanent tenure’, etc.

The lands recorded under the above-mentioned Bajyapti settled, occupancy, and non-occupancy tenures shall, during settlement operations, be recorded as settled tenancy in the districts of Puri, Cuttack, and Balasore. If such tenures are found in any other area, they shall be recorded as raiyati tenancy.”

This process of recording *dakhil satwa sunya* lands as *sthitiban* appears to have been followed or intended to be followed since then. However, certain deviations being



noticed in some Tahasils, the Government, by letter dated 28.01.2021 disapproved the practice of recording the lands in *dakhal satwa bisista* and *dakhal satwa sunya* status as against *sthitiban* status. Instructions were therefore, issued to the field officers for proper recording of the land in light of the *1990 Niyamabali*.

21. A coordinate Bench of this Court in the case of **Jagannath Sahu** (supra) had the occasion of dealing with the effect of letter dated 28.01.2021. After taking note of *1990 Niyamabali*, the Court observed as follows:

“10. On perusal of the Guidelines/Instructions, namely, ‘Rayati Jami Record Kariba Pranali O Satwaa Satwa Niyamabali’, i.e., procedure to record rayati land and regulations regarding status of the land, it clearly indicates that the said Instructions/Guidelines were issued in terms of Memorandum No.29854 dated 25 th June, 1990, which dealt with recording of Government land. At para-23 of the said Guidelines/Instructions, it is clearly stated that as per Section 4 of the Odisha Tenancy Act, 1913, Rayats are of three categories, namely, ‘Charastyee Jama Rayat’, ‘Dakhal Satwa Bisista Rayat’ and ‘Dakhal Satwa Sunya Rayat’. It is also stated at para-23 in some places ‘Stithiban Rayat’ are recorded as ‘Charastyee Jama Bisista’ and ‘Bahel Charastyee Jama’ etc. In all such cases, the land which are recorded under ‘Bajyapti Stithiban’, ‘Dakhal Satwa Bisista’ or ‘Dakhal Satwa Sunya’ during settlement proceeding in the undivided districts of Puri, Cuttack and Balasore should be recorded under ‘Stithiban’ status. Thus, in



para-23 of the Guidelines, it is stated in clear terms that if the lands are settled under the provisions of the Odisha Tenancy Act, 1913 under 'Bajyapti Stitiban', 'Dakhal Satwa Bisista' or 'Dakhal Satwa Sunya' status should be recorded under the 'Raiyati' status, as alleged in the counter affidavit and submitted by Mr. Mishra, learned ASC. On a close reading of the aforesaid Guidelines, it clearly emanates that during settlement operation, if a land has been recorded under 'Bajyapti Stitiban', 'Dakhal Satwa Bisista' or 'Dakhal Satwa Sunya' status, the same should be recorded under 'Stithiban' status in undivided districts of Puri, Cuttack and Balasore. In rest of the areas of State of Odisha, it should be recorded under 'Raiyati' status. Nowhere in the said Guidelines, it is stated that if the land is settled under Odisha Tenancy Act, 1913 under 'Bajyapti Stitiban'/'Dakhal Satwa Bisista'/'Dakhal Satwa Sunya' status, then it will be recorded under 'Stithiban' status. It appears that the Tahasildar, Bhubaneswar has misread the instructions imparted at para-23 of the Guidelines."

22. Observing thus, this Court directed the concerned Tahasildar to consider recording the land under *sthitiban* status by changing the entry in the status of case land from *dakhal satwa sunya* to *sthitiban*. It is stated at the bar that basing on the above judgment, several RORs have since been corrected appropriately.

23. At this stage, the Government issued two purportedly clarificatory letters superseding the letter dated 28.01.2021. By letter dated 19.06.2025, it was held that only lease granted for agricultural purpose can be



recorded as *sthitiban/raiyati* status but those granted for non-agricultural purposes to various organisations, industrial, commercial and public sector undertakings, corporations, local authorities and entrepreneurs etc. shall be recorded as '*pattadar*' and not '*sthitiban*'. This letter was followed by letter dated 02.07.2025, wherein it was held that the earlier letter dated 28.01.2021 does not specify which RORs are subject to change from '*dakhil satwa sunya*' to '*sthitiban*'. Accordingly, said letter was withdrawn and the following directions were issued.

"1. After publication of the RoR (Record of Right), if any RoR was prepared by the Tahasildar or any Revenue Authority basing on lease of Government land with "swatwa" recorded as "Dakhil Swatwa Sunya", it shall henceforth be changed to "Pattadar" in the existing RoR.

2. Further, changes already effected basing upon the letter dated 28.01.2021, altering the "swatwa" from "Dakhil Swatwa Sunya" to "Sthitiban" or any other "Swatwa" in the RoR prepared by the Tahasildars or any Revenue Authority while settling the Government land on lease shall be recorded under "Pattadar" status. This exercise should be completed within a month and compliance should be submitted by all the Collectors.

3. Any RoR framed and published under OT Act, 1913 by the Settlement Authority having been recorded with "Swatwa" as "Bajyapti Sthitiban" "Dakhil Swatwa Sunya" "Dakhil Swatwa Bisista" shall be dealt in accordance with Paragraph 23 of



*the said instruction titled "Rayati Jami Record
Kariba Pranali O Satwaa Satwa Niyamabali"*

This letter was the subject matter of challenge before this Court in the case of **Chandra Prakash Rath** (supra). After analysing the law relating to prospective application of executive instructions, this Court held that ROR of the petitioner therein could not have been corrected to *pattadar* status basing on the letter dated 02.07.2025 as the status had already been corrected from '*dakhal Satwa sunya*' to *sthitiban* prior to issuance of the same.

24. As regards applicability of the letters referred to hereinbefore, there can be no doubt that they cannot be treated as 'Law' within the meaning of Article 13 of the Constitution of India so as to have any binding force. Of course, this Court is conscious of the fact that the same principle would also apply to the 1990 *Niyamabali* as it lacks statutory force, but then, according to this Court, an administrative order/ executive instructions, even if not issued under Article 162 of the Constitution, can still be relied upon/acted upon, if it has stood the test of time,



more so, if the same is based on or reflects the statutory intent.

25. It is not the case of the State that the 1990 *Niyamabali* is, in any manner, contrary to law rather, it is its specific case that 1990 *Niyamabali* ought to be followed. As already held in **Jagannath Sahu** (supra) there is nothing in the 1990 *Niyamabali* laying down that only if a land is recorded in *dakhal satwa sunya* as per the provisions of Odisha Tenancy Act, same can be recorded as *sthitiban* during settlement operations. Even assuming the opposite for the sake of argument, as already stated, after coming into force of the Odisha Land Reforms Act, the provisions of the Odisha Tenancy Act relating to 'tenants' and 'raiyats' would have no application.

26. The net effect of recording of the status as '*dakhal satwa sunya*', as already stated, would be to render it non-transferable. This is akin to placing restrictions on the right of the land owner. To such extent, the land owner must be deemed to be deprived of exercising full right over



his property. It must be kept in mind that said right is guaranteed under Article 300-A of the Constitution, which is reproduced below:

“Persons not be deprived of property save by authority of law, - No person shall be deprived of his property save by authority of law.”

27. It is well settled that the right to property is no longer a fundamental right, but still, it is a constitutional right. Apart from constitutional right it is also a human right. A procedure laid down for deprivation thereof must be scrupulously complied with. Reference may be had to the judgment of the Supreme Court in the case of ***Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel***⁵.

This view has been reiterated in ***Hari Krishna Mandir Trust v. State of Maharashtra***⁶, wherein the Supreme Court held as follows:

“96. The right to property may not be a fundamental right any longer, but it is still a constitutional right under Article 300-A and a human right as observed by this Court in Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel. In view of the mandate of Article 300-A of the Constitution of India, no person is to be deprived of his property save by the authority of law.

⁵ (2008) 4 SCC 649

⁶ (2020) 9 SCC 356



The appellant Trust cannot be deprived of its property save in accordance with law.”

28. It would be interesting to note that while resisting the claim of the petitioner as regards the status of the land, the authorities, on the other hand, have allowed his claim for conversion in respect of the nature (*kisam*) of the land. The petitioner’s application under Section 8-A of the OLR Act was allowed thereby converting the nature of the land from agriculture to household (*gharabari*). This, by itself, suggests that the land has lost its character of a leasehold property.

29. Before parting, this Court, having seen the legislative intent as reflected in the various statutory provisions referred to in this judgment, observes that terms such as ‘*dakhal satwa sunya*’, ‘*dakhal satwa bisista*’, ‘*chirasthayee jama raiyat*’, ‘*chirasthayee jama bisista*’, ‘*bahel chirasthayee jama*’ etc are all pre-vesting terms that really do not have any relevance in the post-vesting era, particularly after coming into force of the OLR Act. In fact, none of the post-vesting legislations makes any reference to



them. At this stage, it would be useful to refer to the Dalziel Report again. Under Chapter IV titled, 'The Record of Rights' the following is mentioned under Paragraph-56.:

"56. Raiyati statuses – The simplification of status entries was particularly applied to those of raiyati holdings. I quote the attestation rule from the rules published in 1927 which were in turn based on the rules in force before that: - "In this record only five terms will be used for raiyats as follows: -

- (a) Chirasthayi jama, raiyats at fixed rents (in P.S. estates).*
- (b) Sthitiban, settled raiyats.*
- (c) Dakhal satwa bisista, occupancy raiyats who are not settled raiyats.*
- (d) Dakhal satwa sunya, non-occupancy raiyats.*
- (e) Bajyafthi sthitiban or bajyafthi dakhal satwa bisista."*

For the guidance of the Attestation Officers it was also laid down that "the following statuses found in the Revision Settlement will now be recorded as sthitiban-xxxxx. These old statuses were not considered worth retaining as they all come within the category of settled raiyats under the Tenancy Act."

The point is, even as early as in 1922-1932, the need to simplify the recording of status of land was felt expedient and in fact, was given effect to.

30. The 1990 *Niyamabali*, though not law, must be understood in the above context. It seeks to rationalize these terms by suggesting recording of these lands as 'sthitiban' or 'raiayat' as the case may be, so as to bring



them in sync with the prevalent statutory scheme. This will remove confusion by correctly depicting the status and nature of the land. Simplifying the process shall enure to the benefit of all concerned. On the other hand, insisting upon pre-colonial and colonial modes of depiction of status of land in the RoRs can only be regressive and thereby, run contrary to the intent of the post-colonial statutes like the OLR Act.

SUMMARY OF FINDINGS:

31. Having regard to the foregoing narration, this Court summarizes its findings/conclusions as follows:

- (i) A person holding land in lease being a raiyat within the meaning of Section 4(1)(f) of OLR Act is entitled to hold such land with permanent, heritable and transferable rights as per Section 6 of the OLR Act subject to limitations imposed under Section 6-A.
- (ii) The 1990 *Niyamabali* implicitly acknowledges the above right as reflected in paragraph-23 thereof.



- (iii) As already held in **Jagannath Sahu** (supra), paragraph-23 of the *Niyamabali* does not place any restriction for recording of the status of such land as *sthitiban*.
- (iv) The land of the petitioner was originally settled under a valid lease which was never resumed or cancelled.
- (v) The lessee validly transferred the land in favour of the petitioner which has never been questioned.
- (vi) The nature of the land has been converted from agriculture to homestead thereby implicitly acknowledging occupancy status of the land holder.
- (vii) Recording of the land as *pattadar* at this belated stage would amount to turning the clock back, which in turn would be contrary to the order of conversion.



32. Having regard to the findings/conclusions arrived at as mentioned in the preceding paragraph, this Court has no hesitation in holding that the impugned orders cannot be sustained in the eye of law. This Court further holds that the nature of the land needs to be recorded as *sthitiban* instead of either *pattadar* or *dakhal satwa sunya*. Of course, this order shall not be construed to have been made in respect of lease granted for non-agricultural purposes, such as, industrial, commercial etc. as mentioned in letter dated 19.06.2025.

33. In the result, the writ applications are allowed. The impugned orders passed by the Tahasildar in the *suo motu* proceeding changing the *satwa* to *pattadar* is set aside. The concerned Tahasildar(s) is directed to issue ROR in respect of the petitioners depicting the nature of the holding as *sthitiban*. Necessary orders in this regard shall be passed within six weeks from today.

34. This Court places on record its deep appreciation for the able assistance rendered by Mr. S.S. Das, learned



Senior Counsel and the *amicus curiae*, Mr. B. Bhuyan,
learned Senior Counsel in adjudication of the lis.

.....
Sashikanta Mishra,
Judge

Orissa High Court, Cuttack
The 22nd May, 2026/ A.K. Rana, P.A.