

Annexure - 01

BEFORE SRI C. NAYAK, AMUL. DISTRICT MAGISTRATE, CUTTACK.

Revision No. 233 of 1984

In the matter of

The Orissa Govt. Land Settlement Act, 1962

And

In the matter of

State Vrs. Sri Deepak Mishra,
Son of Sri Raghunath Mishra,
At/PO: Bampur, Dist. Puri

... Opp. Party

ORDER

1. This suit for revision u/s 7(A) 3 of the Orissa Govt. Land Settlement Act, 1962 is directed against the order dt. 30.11.79 of Tahasildar, Cuttack who in lease case No. 33 of 79 has settled Govt. land with an area of 64.200 (two aro) in village Bidyacharpur with Opp. Party.

2. The lease case record was examined and several defects were noticed. O.P. was asked to show cause why the settlement of land should not be cancelled. The notice calling upon the Opp. Party to show cause was duly served. The O.P. did not appear nor showed cause in response to the show cause notice. Several dates were fixed for hearing. After five dates, the Opp. Party appeared through his lawyer. He showed cause and was heard.

3. Opp. Party in his application without date and without giving particulars of land applied for settlement of about 3 acres of land in village Bidyacharpur on the ground that he was interested in raising a fodder farm. He gave his present address

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at Tulasipur, Cuttack town and permanent residential address at Banapur, Puri district. He stated that he had a joint family of six members and held no land in his name but about ten acres held by his family members. His annual income from agriculture was Nil and from other sources Rs. 3,000/- (Three thousand) which was termed as personal income. Against the column occupation he stated that he was an Advocate practicing. The application does not bear the signature of Tahasildar or any of his office staff. It is strange that a recommendation was given by the local Revenue Inspector dt. 7.8.79 on the reverse of the lease application which reads 'The applicant may be given Ac. 2.00 for cultivation'.

4. A lease case was started on 20.9.79 and the case was assigned No. 512 of 1979. The first order stated that Tahasildar perused the report of Revenue Inspector on the petition of Sri Deepak Mishra and that applicant had applied for lease of land with an area of Ac. 2.00 from plot No. 34 of Khata No. 339 of Bidyasharpur. In fact, the applicant had applied for lease of about three acres of land in village Bidyasharpur without furnishing the Khata and plot No. of the Govt. land he intended to take on lease. Tahasildar ordered to issue notice inviting objection and give a copy of the notice to local Grampanchayat. No date was fixed for the case to be taken up as is the usual procedure in a lease-proceeding.

5. On 20.9.79 an affidavit sworn in before Magistrate First Class was filed by the Opp. Party before Tahasildar stating that extent of land held by him and his family members was Nil, that he was in possession of the land relating to lease case No. 512 of 1979. This

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This affidavit is dt. 19.9.79. The case was registered on 20.9.79 and number was assigned on that date. It is really intriguing how the applicant knew the case number on 19.9.79. The statement made in this affidavit are materially different from that made in lease application. In lease application, Opp^y Party stated that his family hold 10 acres of land while in affidavit he stated that land held by his family was Nil. In lease application, the Opp^y Party stated that he wanted about three acres of land and could not furnish khata and plot No. of the land applied for lease whereas in Affidavit, he stated that he was already in possession of the land. The Annexure- I is the copy of the lease application and Annexure- II is the copy of the affidavit.

6. Tahasildar issued order on 20.9.79 for issue of notice inviting public objection and to give a copy of the notice to the local Grampanchayat in relation to Khata No. 339, and plot No. 34. The notice was issued on 20.9.79. It contains names of applicants' father as Raghunath Misra and Khata No. 339 and plot No. 34. The address was given as Tulacipur, Cuttack.

The notice was published in the village on 4.11.79 and the Nazir received it on 30.11.79. On 30.11.79, Tahasildar passed final order settling Ac. 2.00 from plot No. 34 treating the applicant as a landless person in accordance with G.O. No. 60792 dt. 20.10.72. Patta was issued on 30.11.79. On 14.1.80, order was passed for correction of Record of Right and issue of intimation slip as appeal period was over. On 18.1.80, the R.O.R. was corrected. But by this time, curiously, patta had already been issued on 30.11.79.

There is a map of the leased out land according to which the area demarcated is Ac. 2.00 from plot No. 339 in area Ac. 1.59 and plot No. 34 in area Ac. 0.41 total Ac. 2.00. But

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Patta was issued for plot no. 34 in extent 16/2-00 sq ft. There is nothing on record to explain this discrepancy. The basis of settlement must be held to be wrong.

7. The case record shows that Tahasildar has passed an order on 17/5/80 that he learnt that O.P. was not landless and therefore, he should be asked to show cause by 27/5. 80 by which why lease should not be cancelled. He instructed Revenue Inspector not to realize rent from the lessee (O.P.). The case record does not show if any show cause was issued or any instructions issued to Revenue Inspector not to realize rent. No action was taken until 1984 for cancellation of lease. The Tahasildar who passed order for settlement of land on 39.11.79 and also order to show cause on 17.5.80 was relieved on transfer on 17.9.80. He did not take any action to review his own order or submit the case record to higher authorities for cancellation of lease. This is clear that order for issue of show cause notice was recorded after a long time, may be, after his relief to save himself from the impending disciplinary action.

8. It is an admitted fact that land has been settled with O.P. as he was a landless person in accordance with G.O.No. 607/92 dt. 29.10.72. This G.O. specifically provides in paragraph 4 that a landless person is one who and his family members do not hold any land more than two acres and who have no profitable means of livelihood other than agriculture. It is stipulated in the said G.O. that land upto a limit of 16/2-00 could be settled and the land already held by the family of the applicant will be computed for the purpose of settlement. To give an example if the family of the applicant has one acre of land, he can at best be settled with one acre of

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of Govt. land to reach the limit of Ac:2-00. Government have emphasised in G.O.No. 16699 dt: 6.4.74 how to identify persons who have profitable means of livelihood other than agriculture. According to the statement of applicant in his lease application, he had no land in his name and the family consisting six persons held Ac:10-00 and has income from sources other than agriculture, prescribing presumably from legal practice was Rs. 3000/- per annum. The

Tahasildar should have caused an inquiry as to the eligibility of the applicant for settlement of land. The usual practice is that Revenue Inspector is asked to inquire and report. Tahasildar himself can take up inquiry. In this case, O.P. had stated that he was a resident of Bahapur in Puri district and held ten acres of land without giving details of land such as location, Khata, plot No. etc.

Tahasildar should have asked Tahasildar Banskpur to inquire and report on the extent of land and other sources of income of the family of the O.P. The Revenue Inspector Ramdaspur in whose

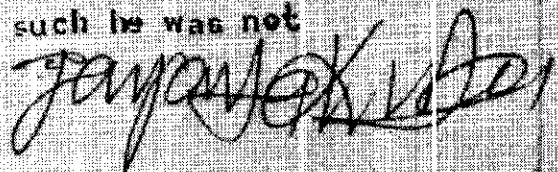
jurisdiction the village Didyachapur is, was asked to inquire and report. He has simply recommended in one sentence

that applicant may be given Ac:2-00 of land for cultivation.

Therefore, no inquiry has been taken up which amounts to deliberate suppression of materials facts which are necessary to decide the quantum of eligibility of a person for

settlement of land for agricultural purpose. The explanation of O.P. that the satisfaction of Tahasildar that he was a landless person was enough, is not acceptable.

Therefore, I am satisfied that O.P. party was not a landless person and as such he was not



not suitable for settlement of Govt. land for agricultural purposes. In this ground clause, the lease is liable to be cancelled by.

Additionally, G.P. is not a resident of village-Bidyachar Govt. Now powers given under the Act and Rules to reserve Govt. land for various purposes and to determine the limit upto which land could be reserved. According to G.O.No. 68792 dt. 20.12.72 of which mention has been made by the Tahsildar in his final order, after meeting the requirements of landless persons residing in the village in which land is situated, the requirement of landless persons of the neighbouring village could be considered. Tahsildar has not given a finding to this effect. He has thus, violated the Govt. instructions.

11. As laid down in G.O.No. 4892 dt. 28.12.66, the Tahsildar must draw up reservation proceeding of the village and after reservation of land for various public purposes such as school, village for it, communal purposes, Development purposes, future house site, play ground etc. This is necessary in order to arrive at the extent of Govt. land available for settlement with the individuals. His records do not show that the Tahsildar has drawn up reservation proceeding of the village or if he has, it was taken into consideration by him before allotment of this land with the Opp. Party. Thus, the Tahsildar did not take the public interest to consideration while settling the Govt. land with a private person.

12. Under section 3(2) of the O.G.L.S. Act, 1962 the Tahsildar has to reserve 70 % of the available lessable land in a village for settlement with the scheduled tribe and scheduled caste persons in proportion to their respective population in the village and the remaining land with other

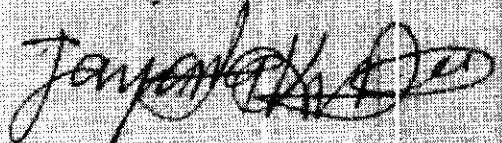
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other persons not belonging to the aforesaid categories.
This statutory provision to safeguard the interest of the weak section of the community has been ignored by the Tahasildar.
The Tahasildar has not recorded a finding that he has reserved the land for the S.C./S.T. residents of the village.

13. Under section 3(3) of the O.G.L.S. Act, the Tahasildar will settle land on the basis of the order of priority that the Tahasildar has settled the land with O.P. according to the order of priority laid down under the Act.

14. As per rule 3 of the O.G.L.S. Rules, 1974 proclamation inviting public objection shall be published and the said proclamation shall contain particulars of the applicant and particulars of the land applied for such as name of the village, Khata, plot, status, kisan of land etc. The proclamation shall be published by beat of drum and a copy of the same shall be affixed in Tahasil office board. A copy of notice shall be sent to the concerned Grampanchayat. The proclamation notice is not numbered and dated. Kisan of the land which is very vital to identify the land by the general public and Grampanchayat has not been deliberately furnished. The records do not show if the notice was published by beat of drum and if it was affixed in the notice board of the Tahasil Office. The concerned Panchayat has not received notice. Notice was served on the Panchayat through affixture. It cannot be believed that Sarpanch after going through the notice declined to receive the same. It is, therefore, ^{proved} that proclamation has not been published properly and absolutely according to law.

15. It appears from the records that the land has been settled free of salami. But it was incumbent on the part of the Tahasildar to enquire in detail to the economic condition of the



of the lease 1.0% the extent of land held by the family and whether he had any profitable means of livelihood. Such an enquiry has not been made.

1671 The D.P.'s contention that this court has no jurisdiction and exercise of summary powers is arbitrary, is not tenable on the ground that specific powers have been vested under the law to take up summary proceedings in any of the grounds set out therein.

1771 I am satisfied that the lessee has obtained lease by misrepresentation and fraud. The Tahasildar has committed material irregularity in the procedure for which the public interest has suffered. It is a common knowledge that many poor villagers, particularly, weaker section of the community have no means of livelihood and the land available in a village should be made available to them to enable them to earn their livelihood and give them a sense of economic security which is the declared policy of the State.

1871 I, therefore, set aside the order passed by the Tahasildar in settling the lease with O.P. Consequently the lease is cancelled. Tahasildar, Cuttack is hereby ordered to make necessary correction of the H.O.R. and other records maintained in his office and in the office of the concerned Revenue Inspector and take possession of the land.

Pronounced in the open court this day the 11th February,

1971.

(S. Nayak)
Addl. Dist. Magistrate, Cuttack

1301-2-20-71
K. S. Nayak
1301-2-20-71
Area - 10.21 (two acres)
Typed by: [illegible] and
checked by: [illegible]

A.P.M.

1301-2-20-71
19/2/71
[Signature]

W.P.(C) NO 4136/09

IN THE HON'BLE HIGH COURT OF ORISSA
AT CUTTACK

FINAL STATUS REPORT IN CBI/SCB/KOLKATA
CASE NO. PE 1/S/2012-Kol

Introduction

PE.1(S)/2012/CBI/SCB/Kolkata was registered on the basis of orders dated 18.01.2012 of Hon'ble High Court of Orissa, Cuttack, issued in Writ Petition (Crl) No.4136 of 2009, filed by one Chittaranjan Mohanty, resident of Plot No.2-F/854, Sector-XI, Adarsh Nagar, Abhinab Bidanasi Project Area, CDA, Cuttack wherein the petitioner had initially sought for direction to the Cuttack Development Authority and Cuttack Municipal Corporation for constructing a wide road of 120 feet on the right hand side of Petanala behind Rotary Eye Hospital up to end of Sector 10 of Abhinab Bidanasi Project Area, C.D.A., Cuttack for better traffic management.

That an affidavit was filed by the Executive Engineer, Cuttack, P.S.B. Division stating to the effect that lands over which the road proposed to be constructed by the side of Petanala from Satichaura/Ashiwini Hospital to Sector 10 of CDA Abhinaba Bidanasi Housing Project Area, have been unauthorisedly encroached by several persons, and thus, unless the unauthorised encroachments were removed and encroachment free lands were made available, the road cannot be constructed. The Hon'ble High Court directed the State to furnish the details of unauthorised construction in the area in question so also the detail of the unauthorised occupants and the recognised habitation.

3. That the Hon'ble High Court in its order dated 17.11.2011 in Writ Petition (C) No. 4136/2009, issued directions to the Secretary, Revenue Department, District Engineer, Public Works Department and other officials for demarcation of the land and removal of encroachment so that the area in which the road in question was to be constructed was free within a period of fifteen days.

4. That in pursuance to the above order, as the authorized persons demarcated the land for the construction of road, one Madhabanand Prusty and 2 others who were resident of the area where the land was demarcated for the proposed construction of road filed a Writ Petition vide WP (C) No.31318/2011, seeking directions from the Hon'ble High Court of Orissa, Cuttack for not evicting them for the construction of road as they will be deprived of the lands on the proposed road as well as of the lands which are holding by them since their occupation for a long period.

5. That Shri Chittaranjan Mohanty, petitioner of WP (Cr) no 4126/2009 filed another application registered as M.C. No. 19330 of 2011 wherein he alleged that land mafias and land grabbers have deliberately dismantled the concrete pillars put up by the R. & B Department on both side of the demarcated land and are trying to stall the road work and some land mafias are also instigating the unauthorized encroachers not to vacate the lands in their possession. It was also alleged that major portion of the lands in Baganasi belonging to the Govt have been sold by the land mafias to needy persons at a very high rate and large extent of land in the area has been unauthorisedly occupied by several persons and the land mafias are in total control over such lands. That apart, Govt. lands in the area have been recorded illegally and

forged documents have been created by the mafias and Revenue officials are involved in creation of such forged land records. Accordingly, the petitioner prayed for direction to CBI to enquire and investigate into the matter. It was submitted by the advocate on behalf of the petitioner during the hearing that encroachment of Govt. land has not been made by the real poor, landless or needy persons but by land mafias and land grabbers, who have in an organized way grabbed the Govt. lands and sold the same to a large number of persons at a very high rate as a result of which poor and needy persons have become the victims at the hands of such mafias.

6. That subsequently, Madhabananda Prusty and 2 others filed an application registered as M.C. No. 198/2012 to allow them to intervene in the WP (C) No. 4136/2009 on the ground that they would be affected by the road proposed to be constructed in terms of the direction of Hon'ble High Court on the land which is in their occupation for a long period. The prayer for intervention was allowed by the Hon'ble Court.

7. That considering the petition of Chittaranjan Mohanty filed in WP(C) No.4136/2009 and M.C. No.198/2012, the Hon'ble High Court of Orissa on 16.01.2012 directed CBI, Special Crime Branch, Kolkata to enquire and investigate into the following aspects:

i) Circumstances leading to occupation of the Govt. lands and whether there is any transaction made for occupation of the lands by the unauthorised occupants with unscrupulous persons or manipulation of Govt. records?

ii) Whether any Govt. officials/public servants or private persons are involved in unauthorised encroachment/occupation of the Govt. lands and deal made therefor?

iii) The persons claiming to be owners of the Govt. lands and the manner in which they occupy such lands shall be enquired into.

iv) The CBI shall also examine the culpability of the persons and/or public servants in the land deal and in case the CBI finds any prima facie case it will be open to them to institute cases against such persons/public servants in accordance with law.

v) The CBI shall submit periodical reports before this Court regarding the progress made in the investigation.

8. That on the same date i.e. 15.01.2012 in- WP (C) No. 31316/2011 the Hon'ble High Court vide another order issued directions to the CBI, Special Crime Branch, Kolkata that apart from the investigation as directed in WP(C) No.4136/2009, the CBI Authorities should also enquire and investigate into the following-

i) Whether the petitioners are in actual possession of the land?

ii) Whether the acquisition of the rights of the petitioners are legal or based on any fraudulent transactions?

iii) Whether there is any fraud or fraudulent deals made between the petitioners and any official of the Government?

9. Based on the two separate orders of the Hon'ble High Court, the CBI had registered two Preliminary Enquiries as detailed below:

(a) PE 1(S)/2011 for probing into the alleged unauthorised encroachment of entire Government Land at Bidanasi Area of Cuttack District comprising of 13 mouzas viz. Bidyadharpur, Bentokarpada, Ramgarh, Tangarbuda, Brajabiharpur and Unit I to Unit 8.

(b) PE 2(S)/2012 for probing into the encroachment made by 149 encroachers on the Petanai Side of Bidanasi Area in the Bidyadharpur and Bentokarpada Mouza where the proposed road connecting Ashwani Hospital, Sati Chaura to Sector X CDA was to be constructed.

Result of Enquiry of PE 2(S)/2012:

10. That enquiry of PE.2/S/12-Kol has since been completed and a Status Report has already been filed in the Hon'ble High Court of Orissa informing therein that out of the 149 occupants found residing on the

19 Lease Case No.587/1979

55. In this case, the applicant Sri Krishna Chandra Nanda, son of Late Handihanchu Nanda, resident of Srinibasapur, P.O.-Banpur, Dist.-Puri was leased out 2.000 acres of land vide khata No.330, plot No.34 of Mouza-Bidyacharapur on dt.30.11.1979 by the then Tahasildar, Cuttack. The matter was reviewed by the Additional District Magistrate, Cuttack vide revision No.236 of 1984 who vide his order dt.11.02.1985 straight way set-aside the order passed by the Tahasildar in leasing out the land in favour of Sri Krishna Chandra Nanda. The Tahasildar, Cuttack was directed to make necessary correction of the R.O.R. and other records maintained in his office and the concerned Revenue Inspector was also directed to take possession of the land. However, effect to the revision order was not given till 06.01.2012 and the ROR was corrected after another order was passed by the Tahasildar on 06.01.2012.



20 Lease Case No.588/79

56. In this case, Smt Dipak Mahanta S/o Raghunath Mishra, Mahatolapur, P.O. - Labagh, Cuttack & permanent R/o Banpur, Puri was sanctioned 2 acres of land by the then Tahasildar Mr. T.A.Khan on 30.11.1979 at Plot No.34, Khata No.330, Mouza - Bidyacharapur.

The allotment order of Tahasildar was cancelled by ADM Cuttack vide Order 11.02.1985. But the record was corrected only on 06.01.12 as per the order passed by the Tahasildar, Cuttack only after 06.01.2012.

20 Lease case No.721 of 1979

57. In this case, Smt.Kumadani Das C/o. Sh.Krushna Chandra Das of Mohanpur, Cuttack, was settled Govt. land of 104 gaj in Khata No 300

From the note dated 03.05.1986, it is revealed that, the Collector had given sanction of 3.000 acre of land from Mouza-Bidyadharpur. The connecting papers are not available in the file, as a result of which it is difficult to ascertain the reason for re-sanction of 3.000 of land from the same Mouza. Further, from the patta form issued to G.C. Lenka on 03.11.1981 reveals that, Sri G.C. Lenka was a Commandant in C.I.S.F., Rourkela. Even from the khatiyani (ROR), it is revealed that, 3.000 acre of land in Mouza-Bidyadharpur stands recorded in the name of G.C. Lenka.

29. Lease Case No.338/1981

In this case, the application, report of R.I. entire orders-sheet of the Tahasildar regarding request submitted by S.C. Mahalik, and subsequent settlement of land in his favour by the Tahasildar is not available in the file. The file only contains the patta form issued by the Tahasildar and P.O.R. As per the order sheet dt.15.05.1985, a representation has been made to the Collector, Cuttack by S.C. Mahalik relating to allotment of land from 3 acres to Ac.0.50. The Collector Cuttack vide his order No.2499, dt.15.04.1985 has confirmed the allotment of only Ac.0.50 in favour of Shri Mahalik. The Tahasildar had further ordered that, the remaining land of 2.50 acres may be kept under the Govt. control. Enquiry has revealed that as per Khatiyani the land of Ac.0.50 Der was recorded in the name of Shri S.C.Mahalik who subsequently had sold all the land leased out to him.



Irregularities noticed in the sanction of lease relating to Bidyadharpur Mouiza

67. The following irregularities have been noticed in the grant of lease to the cultivators of Bidyadharpur Mouiza.

(a) In Lease Case No.300/77 relating to Prafulla Behera who has been settled with 1.38 acres of government land, Mr. J.A.Khan the then Tahasildar who had sanctioned lease had found that the applicant was not landless and on 17.05.80 directed for issuance of show cause notice for cancellation of lease but no show cause notice was subsequently issued and the directions remained inoperative, as a result the land and lands recorded in the name of Shri Prafulla Behera.

(b) The ADM (Revenue) has cancelled a number of lease cases but the records were corrected only after 6.1.12. In some cases the directions for correction of ROR has not been marked to anyone. The non-correction of records has resulted in the sale of the cancelled government land and also occupation by the cancelled lease holders. In one Lease Case 403/79 (Sadhu, Charan Mohanty), it is observed that the cancelled lease holder has been occupying the leased land and paying rent regularly. Similar cases cannot be ruled out.

(c) The ADM (Revenue) has canceled most of the lease cases on the ground of fraud and misrepresentation but no action against the concerned persons in Staff have taken.

(d) In Lease Case No.233/76, the ADM(R) had asked for a report by the Sub-Collector but no action seems to have been taken.

(e) In some lease cases filed, affidavits are not available and also in some cases, applications and RI reports are not available.

(f) In Lease Case No.1469/78, lease was sanctioned to a Tahasildar (Gazetted Officer) which was subsequently cancelled by the ADM(R).

(g) In Lease Case No.1630/76, source of income has not been mentioned properly.

(h) In Lease Cases 585/79, 586/79 & 587/79, lease has been sanctioned in an irregular manner.

examined. Around 2907 occupants were examined and documents in the form of RORs, Sale Deeds, Electricity Bills, Voter Cards, Encroachment notices collected from them were scrutinised.

93. Following is the summary of findings based on scrutiny of documents produced by the occupants of the houses surveyed during the inquiry.

1. Bidyadharpur:

1. The Settlement Operations of this Mouza was conducted from 1960 and settlement ROR was published in 1973. The details of Government land in the aforesaid mouza which comes under the Bidanasi Triangle is as under.

Sr. No.	Khata No.	Plot No.	Area
	330	3	Ac.42.72
		11	Ac. 2.72
		10	Ac. 2.75
		12	Ac.17.55 (P.)
43.		1	Ac. 27.65 (P)
11		6/1405	Ac. 16.47
		6/1441	Ac. 0.92
		4/1444	Ac. 2.35
		4/1445	Ac. 2.35
Total	3	9 plots	Ac.165.470

13. During survey of this Mouza, 1081 nos. of houses/places were surveyed. Plot No.6 which was a private plot has also been surveyed as the same has been alienated to the Cuttack Development Authority. The detailed survey report incorporating therein the plot no, quantum of land surveyed, name of the occupant, type of construction noticed, amenities available like electricity, voter cards, house plate nos., water, ration cards, BPL, APL cards etc. was prepared which is enclosed separately.

in Annexure "I". Out of 1081 nos. of houses/places surveyed, it is revealed that 801 occupants as per Annexure "A" enclosed were found to be encroachers in occupation of government land without any valid documents.

97. As regards the status of the remaining occupants it is revealed that 243 nos. of occupants are in possession of Sale Deeds/ROR etc, out of which 18 occupants have also encroached upon government land in addition to the land possessed by them. During survey 17 occupants who were occupying land despite their lease being cancelled were also identified. The status of 37 occupants are not known as the land is lying vacant and their owners could not be located.

Bentakarpada:

98. The Settlement Operations of this Mouza was last concluded in 1975 and Settlement Records of Rights (ROR) were published. Thereafter from 1978 Consolidation operations were started and consolidation ROR was published in 1983. The details of Government land in the aforesaid mouza which comes under the Bidanasi Triangle is as under:

Sl. No.	Khata No.	Plot No	Area
	56	1	A0.48 dec
		2	A0.15
		3	A0.33
		4	A0.89
		5	A0.50
		6	A0.84
		9	A0.15
		10	A0.54
		11	A0.05
		12	A0.22

	13	A0.13
	14	A0.12
	17	A0.20
	18	A0.13
	19	A0.24
	20	A0.65
	22	A1.00
	24	A0.03
	25	A0.41
	26	A0.15
	28	A0.52
	29	A0.78
	30	A1.34
	32	A0.81
	33	A4.30
	34	A0.02
	35	A0.72
	39	A0.21
	43	A0.65
	44	A0.16
	45	A0.04
	47	A0.18
	48	A0.16
	49	A0.17
	50	A0.18
	51	A0.13
	52	A1.12
	53	A0.41
	54	A1.76
	55	A4.80
57	59	A5.70 (Na/B)
58	16	A0.06
	31	A0.50
	36	A0.05
60	41	A1.00
61	44	
	45	

133. Enquiry has thus revealed that encroachments have not come up overnight but encroachment had occurred over a period of time which got momentum after the formation of the Bidanasi Triangle Project in 1983 and the acquisition of land for Cuttack Development Authority (CDA) in 1983 & 1984. Once notification for acquisition of land for CDA was issued, the encroachment of land by the local villagers of Bidanasi intensified and due to their local influence and physical presence they were able to sell the encroached land to the needy persons on payment. The CDA on their part could not take possession of the notified land for years together, resulting in escalation in the payment of compensation to the private land holders and rampant encroachments on government land by the local villagers and land mafia who in turn sold the same to various needy people. On the recommendation of the CDA the Government had issued denotification of around 227.890 acres of land in the designated Sector V and the ground for withdrawal by CDA was that there were encroachments, land settled under OGLS, Land coming under Ring Road and river embankment, land coming under Gramya Jungle etc. Though there have been allegations with regard to the nature of acquisition and subsequent denotification due to political pressure, this matter has not been enquired into detail as CBI has not been specifically asked to enquire into the land acquired by CDA/notified for acquisition by CDA.

134. Enquiry has also revealed that all the senior revenue functionaries were in the knowledge of rampant encroachments in the Bidanasi area and despite their knowledge, the encroachments swelled day-by-day and sufficient measures were taken to safeguard the govt. land which the local mafias openly sold. No steps have been taken to end the

encroachers from the govt. land. Encroachment are still going on in the area. It was noticed during the course of CBI enquiry. The illegal occupants comprises of the local village people who have still in their possession a large chunk of govt. land belonging and let out govt. land belonging to the Police Department, Court Staff of both High Court and Lower Court, Revenue officials, Advocates of Higher & Lower Judiciary, Excise officials, Education Department, Nurses, officials of C.M.C., C.D.A., C.F.S.I. etc. who are totally well off but still they had knowingly purchased/occupied govt. land knowing very well that, it was a govt. land. There are only few needy persons who have encroached govt. land and the Hon'ble High Court had rightly observed that, the encroachments have not been made by the real needy. All these encroachers have been enjoying amenities/facilities from various government agencies despite their encroachment status and the govt. officials have willingly provide them with various facilities like roads, drainage system, electrical connections, street lighting, roads, sweeping by the C.M.C. staff, leave alone other facilities like ration cards/BPL/APL Cards, Voter I-card/Aadhar cards, Electricity connection, Water connection etc. Majority of the encroachers have stated that they have been residing at the present area for a long time and while constructing pucca houses no revenue official or any other government official at any point of time had raised any objections with regard to the constructions made except recently when the Tahasildar had issued notices. In one of the cases, one Revenue Inspector, Hrudananda Palai (now retired) who was posted as R.I. of the Ramdaspur Circle which looks after the Bidyacharpur and Bentkarpada Mouzas is also staying permanently in the Bentkarpada Mouza by constructing a house on a govt. plot unauthorisedly. Similarly one retired section officer from the board of revenue Shri Madhu Sudhan Mallick has



also constructed a double storeyed building unauthorisedly on the ceiling surplus land which has been taken over by the Government.

135. Enquiry as such revealed that though there have been encroachments prior to 1983 as has been pointed by the Revenue Divisional Commissioner in his report, but as per the survey conducted and documents collected from the encroachers it is revealed that most of the encroachers are occupying the plots/mouzas only after 2000 and not from 1980s as has been pointed by the Amin Balukeswar Sahu in his report to the Tahasildar when an enquiry was ordered by the ADM(R) with regard to the encroachments made on Government Land in 2001 on four mouzas/Units viz. Bidyadharpur, Bentakarpada, Unit I & Unit II. This fact can be gauged from the various amenities provided to the encroachers as aforesaid. Only a few occupants are in possession of amenities after 1990s.



(X) OBSERVATIONS ON IRREGULARITIES IN SETTLEMENT OPERATIONS:

136. During enquiry it was not possible to look into the settlement proceedings in respect of the all the mouzas in absence of any specific information about irregularity to verify the same. However, during course of survey and measurement of Unit I & Plot No.1 Bidyadharpur Mouza, it came to notice that some occupants on Government Plots in Unit I were actually in possession of Sale Deeds relating to Plot No.2 of this Mouza. Enquiry in this regard revealed that Plot No.2 a 15 acre land which was hitherto a Government Land was settled in the name of Budhi Devi W/o Late Kangali Behera during the 1974 settlement. During enquiry it was discreetly revealed that out of this 15 acres of land, the legal heirs of

many instances the Courts have given relief to the unauthorised occupants. In some cases ex-parte orders have been given and the Revenue Department instead of appealing against the said ex-parte orders have settled land in the favour of encroachers.

1. The machinery of Revenue Department to check encroachment of Government land has been found to be completely ineffective. Even when our survey was being conducted fresh constructions on government land were noticed.

XX. SUMMARY OF FINDINGS WITH REFERENCE TO SPECIFIC DIRECTIONS OF HON'BLE HIGH COURT:

191. The enquiry with regard to the specific directions given by the Hon'ble High Court has revealed as under:

(a) That with regard to the point "*circumstances leading to occupation of the Govt. lands and whether there is any transaction made for occupation of the lands by the unauthorised occupants with unscrupulous persons on manipulation of govt. records*", it is revealed that occupation of government land may be due to encroachments and legal/illegal settlements by the Settlement Authority/Consolidation Authority/Tahasildar.

192. Enquiry has already revealed certain instances of irregular leasing out of government land to ineligible beneficiaries by the Tahasildar, Cuttack Sadar during the period 1977 to 1980 in Bloyadharpur Mouza. Though some of the cases of irregular lease were cancelled by the ADM (Revenue) on review but the lease holders had not vacated the said land. Even the records were corrected after 6.1.2012 even though the lease was cancelled during 1984-85. CBI could also establish that in around

13 cases, though lease were cancelled, but the lease holders had sold the said land to the present occupants by executing agreements. Enquiry has further revealed that land was also leased out to private persons in Bontakarpada Mouza during the pendency of Consolidation proceedings which was quite irregular and the records appears to have been manipulated but due to non availability of these lease records, this fact could not be enquiry into. Similarly as already brought out land has been settled in Bidyadharpur and Bontakarpada Mouza on the basis of Hath-Pattas genuineness of which could not be checked due to non availability of Ekpada and Tenancy Register. The role of the Settlement Officer and Consolidation Officer in the recording of large chunk of Government Land in favour of private persons in an irregular manner in some of the cases have already been brought out in the enquiry conducted by the CBI. Enquiry has further revealed that large patches of land in different mouzas were recorded to be in illegal possession of various occupants, but no serious efforts beyond issuance of encroachment notice in some cases have been made to take back the land in illegal possession. As a result these illegal occupants were able to either sell most of the land to prospective buyers or construct houses for renting them out. These cases have been elaborately discussed by the CBI in this report at appropriate places. Enquiry has already revealed that the encroachment in the Bidanasi Area rampantly increased after the formation of the CDA for which land were acquired and as the value of land increased it further prompted unscrupulous elements to occupy Government land. CBI had identified around 2867 encroachers and had also examined most of them and it is revealed that some of the occupants had paid various amounts to local elements to taking possession of the area and also constructing dwelling house thereon.

From the survey so conducted it is also seen that proper plotting has been done on the government land by unscrupulous elements with roads and thereafter sold to the buyers. Though majority of the encroachers have paid money for taking possession of the land but did not reveal the names of the persons out of fear of severe reprisal from the local toughs to whom the amount was paid but only some of them have confirmed having paid amounts to unscrupulous elements viz. Dnadi Pradhan, Gunga Behera, Kalendi Behera, Ganesh Nayak, Babaji Benara, Bipin Das, Kartik Benara, Sahdeb Nayak, Pramod Kumar Patra without receipts. The type of constructions made by the encroachers indicate that the Tahsil staff were either involved in this deal or chose to remain silent as most of the encroachers have stated that none of the Tahsil Staff have at any time had stopped them from constructing the dwelling house. The rampant encroachment is still going on as was noticed during the course of survey. As regards manipulation of government records, during our enquiry none of the encroachers came up with forged documents of entitlement of land but 63 persons have been found to have submitted forged patta documents to CESU for obtaining electricity connections. Though there may be manipulation of records during grant of lease in Bentakarpada Mouza but the same could not be enquired into due to non availability of lease files, Ekpadia, Tenant Ledger etc.

(ii) That with regard to the second query as to "*whether any Govt. Officials/public servants are involved in unauthorised encroachment/occupation of Government Land and the deal made therefore*" enquiry has revealed that a lot of government servants both in service and retired who are either working/worked with Police Department, Court Staff of both High Court and Lower Courts,

Revenue officials, Advocates of High Court, Excise officials, Education Department, Nurses, officials of C.M.C., C.D.A., CESU etc. and who are totally well off. The role of Shri Ramakant Mohapatra, Asstt. Consolidation Officer and Shri Braja Kishore Mishra, Asstt. Settlement Officer in the irregular recording land during the Consolidation and Settlement Operations respectively has come to notice. As regards the involvement of the Tahsil Staff in the unauthorised encroachment/occupations of government land enquiry has revealed that no documentary evidence could be adduced to show that the Tahsil staff were involved in the encroachment, however, the way massive encroachments have taken place under the nose of the Tahsil Staff, the fact, the Tahsil Staff turning a blind eye to the ongoing encroachment and illegal constructions cannot be ruled out. The fact that examined occupants have stated that no one has objected to their occupying and construction of house on government land and the type of constructions made on the government land indicate the connivance of the Tahsil Staff. The role of Tahsil staff and other revenue officials in granting irregular lease rights and irregular settlement has already been pointed out hereinbefore. Except issuing encroachment notices often, nothing fruitful has been done by the Tahsil Staff. The details of Revenue Officials including Tahsildars who remained posted in the Tahsil is enclosed as **Annexure "XV"**. From the records collected, it is seen all the functionaries right from the Tahsil Office to the Revenue Secretary were aware about the encroachment and in 2001 an enquiry was conducted. A report of the enquiry was prepared by the Tahsildar Cuttack Sadar through his Assistant on the directions of then ADM (Revenue) and around 1000 encroachments and encroachers viz. Broyadharpur, Bentakarpada, Unit I and Unit II were identified. No effective action was however, taken

thereafter. The encroachers on their part had also knocked the doors of various Courts for relief against encroachment/eviction and have been mostly successful in obtaining relief. The findings of the enquiry and the fact that no encroachment removal was undertaken in the area before 2012 when Hon'ble High Court intervened in the matter are a telling indicator of the fact that the machinery of the Revenue Department, both at the cutting edge and supervisory levels, has been thoroughly ineffective in protecting the government land. As regards the role of persons involved in bringing the encroachment, enquiry has clearly brought out the role of some of the private persons viz. Dhadi Pradhan, Gunga Bihari Kalandi Behera, Ganesh Nayak, Bhatari Behera, Bipin Das, Kallik Behera, Sahdeb Nayak, Pramod Kumar Patra in the selling of government land to private persons.

(ii) That with regard to the third point *"that the persons claiming to be owners of government land and the manner in which they occupy such lands shall be enquired into"*, it is stated that during course of enquiry a comprehensive survey and measurement of land in all the 13 mouzas/units of Bidanasi area was got conducted by CBI with the help of Revenue Officials. Around 4868 houses were surveyed out of which 2867 occupants were found to be encroachers illegally occupying government land without any valid land documents, except possession of election cards, electricity connections, water connections, House Plates, rations cards, native certificates etc obtained by them from different government agencies. Majority of the recent encroachers have paid some amount or the other to unscrupulous elements for getting possession of the government land but they have no receipts of such payments. These unscrupulous elements have also

helped them in getting the houses constructed. Further some of the occupants occupy the government land on the basis of unregistered agreements executed by the earlier occupant of the government land for consideration. Some of the lease holders whose lease was cancelled also continue occupying the cancelled lease land and some of the cancelled lease holders have also sold their land to the present occupants. The remaining illegal occupants occupy the land on the basis of registered sale deed executed between the recorded owners in whose name land was recorded either during settlement operations, consolidations operations (on the basis of Hath Pattas issued by ex-intermediary) or by the Tanasidar in the form of lease. Some of the occupants especially of village of Gopalpur, and the land in the form of ancestral property.



(iv) That with regard to the point that the ***"CBI shall also examine the culpability of the persons and/or public servants in the land deal and in case the CBI finds any prima facie case, it will be open to them to institute cases against such persons/public servants in accordance with law"***, it is to be stated that due to the constraints of manpower, time and non availability of all relevant records, reasonable prima facie evidence could not be collected during the enquiry to institute cases/priminal cases against the delinquent public servants. However, specific instances where gross irregularities have been noticed on the part of revenue department officials have been mentioned at appropriate places in this report and further fact finding enquiry in such instances by the competent officials of the Board of Revenue is recommended.



XXI. FINAL RECOMMENDATIONS:

103. In view of the above facts and circumstances, the following recommendations are made:

ii) The CBI has been able to point out glaring irregularities in the recording of land during Settlement Operations of Bidyadharpur Mouza and during the Operations of Bentalarpada Mouza. Going into each and every case settled during settlement operations is a resource intensive job and CBI is handicapped due to shortage of adequate manpower and technical expertise and experience in dealing with complicated land matters. However, during this enquiry, CBI has been able to suggest a modality to address the core issue which needs to be carried on by the competent officers of Revenue Department. Hon'ble High Court may as such issue directions for constitution of a committee comprising of experienced and capable officers of the Settlement, Consolidation and Revenue Department to look into the remaining cases settled during Settlement Operations as well as issues related to grant of lease in Bidyadharpur Mouza and other mouzas in Bidanasi Area and for suitable follow up action by the competent state government authorities.

iii) CBI is forwarding entire survey list to the Board of Revenue, Government of Odisha. Hon'ble High Court may as such direct Board of Revenue for taking appropriate action against the erring revenue officials entrusted with the task of preventing encroachment of government land and also to stop ongoing illegal constructions on government land and also to take follow up action mainly with regard to the survey plots.

c) Hon'ble High Court may issue directions for referring the observations of CBI on the following cases to the Board of Revenue, Govt. of Orissa for taking appropriate follow up action at their end including referral to the DGP, Orissa if deemed fit:

(i) Settlement of 15 acres of land in favour of Budhi Dei in Plot No.2, Bidyadharpur Mouza.

(ii) Changing Status of land relating to 42.19 acres in plot no.139 during consolidation proceedings and illegally recording the same in the name of various persons.

(iii) Mutation case of Mr. RA Hutchins who was leased out 5 acres of land at Bidyadharpur Mouza.

iv) Sale of land in Plot No.2, Bidyadharpur Mouza and giving possession on adjacent government land.

(c) Change of status of land relating to 42.19 acres in plot no.139 khata No.27, Bentakarpada Mouza and grant of lease and recording the same in the name of private persons by the Tenasiddar, Sadar Cuttack during the pendency of the consolidation operations.

(d) A self contained Note is being sent by CBI to the CESU authorities for taking appropriate action with regard to the sanction of electrical connections to the encroachers and also for taking necessary action against the illegal occupants of government land who had submitted forged documents of ownership for obtaining electricity connection.

(e) CBI is also sending a Self Contained Note to the Chief Secretary, Government of Odisha on the following issues on the measures to check encroachment:

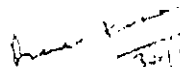
1. Large patches of government land lying vacant should be immediately fenced and signboards should be put up.

2. There are also some patches of land lying vacant inside the mouzas which are in illegal possession. Modalities should be worked out to take back the excess land which is in illegal possession of the encroachers as some of them have also been granted lease from the government. Efforts should also be made to evict the occupants who have been sold part of the land from the encroached land to the present encroachers.

3. Take back the excess land occupied by the patta holders.

4. Enact a stringent law to check encroachment of government land as the OPLE Act has outlived its requirement. There should be proper co-ordination between the revenue officials and police.

Submitted please


(Pranav Kumar)
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