

By e-Mail/FAX

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

No. RDM-CHS-CLRFIC-0004-2018 **16449**/R&DM dated **7/5/2018**

From

Dr. Chandra Shekhar Kumar, IAS.
Principal Secretary to Government .

To

The Secretary, Board of Revenue
All Collectors

Sub- Rejection of Mutation cases on various grounds: clarifications thereof

Sir,

Maintenance of Record of Rights and keeping it up-to-date is the primary responsibility of Tahasildars. Records are updated through mutation proceedings. For timely delivery of Public Services, timeline for uncontested mutation cases is ninety days. It has been brought to notice of this Department that Tahasildars are rejecting mutation cases on various flimsy grounds which is detrimental to the updation of land records. The following instructions are issued for the guidance of Tahasildars.

1. In some instances, Tahasildars are rejecting mutation cases presuming that the sale deed relating to a particular transaction is fraudulently made and void thereby. In this connection, it is reiterated that once a sale deed is registered under the provisions of the Registration Act, 1908, the sale deed remains valid in the eye of law, unless such instrument of sale is declared void or cancelled by the competent Civil Court under section 31 of the Specific Relief Act, 1963. Consequently, the allegation of fraud does not render the transaction or the deed void **ab initio** before the Revenue Officer who is considering mutation. A person who is aggrieved by the sale deed can only approach the competent Civil Court for relief and unless the sale deed is declared void by the Civil Court, mutation cannot be rejected.

2. Rejection of mutation case instituted on the basis of Form-3 in e-Mutation process, due to absence of the vendee / purchaser on the date for hearing of the case or non-production of registered sale deed by the purchaser is strictly prohibited. Since e-Mutation has been rolled out in all Tahasils, the registered sale deeds can be viewed on-line in LRMS software. Hence, the necessity of the presence of vendee / purchaser or production of documents shall be dispensed with at the time of disposal. Only in case of any mutation, where the interim sale deeds are required to assess the flow of title in favour of the purchaser, the production of document shall be insisted upon. The reasonable opportunity of being heard is to be provided to the applicant / purchaser.

3. After passing of the Registration (Odisha Amendment) Act, 2013, the Registering Officer has been mandated U/s-22-A(1) of the Act to refuse to register-

(a) any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease-

- (i) belonging to the State Government, or the Local Authority;
- (ii) belonging to any religious institution to which the Odisha Hindu Religious Endowment Act, 1951 is applicable;
- (iii) belonging to or recorded in the name of Lord Jagannath, Puri;
- (iv) donated for Bhoodan Yagna and vested in the Odisha Bhoodan Yagna Samiti established under section 3 of the Odisha Bhoodan and Gramdan act, 1970;
- (v) belonging to Wakfs which are under the supervision of the Odisha Wakf Board established under the Wakf Act, 1995;

unless a sanction in this regard is issued by the competent authority as provided under the relevant Act or in absence of any such authority, an authority so authorized by the State Government for this purpose, is produced before the registering officer.

4. Besides, the Registering Officer shall refuse to register any instrument relating to transfer of immovable property, the alienation or transfer of which is prohibited under any State or the Central Act.

5. In view of the above, while adjudicating mutation case, Tahasildar shall not reject the mutation case unless the Registering Officer has allowed registration in violation of the provisions of the Registration Act as mentioned in paragraph-4 & 5.

6. In case of a Will which is not probated, the mutation shall be rejected. Even in case of a Will which is probated, mutation shall not be allowed in Scheduled Area, if the immovable property contained in the Will belongs to person belonging to Scheduled Tribe.

7. The mutation for flats under Real Estate may be rejected in absence of definite policy on the matter.

8. Any application received through SWO for mutation of land where cause of action relates to pre-final publication, the case shall be dropped and applicant may be advised to file revision cases under section 15(b) of OS&S Act, 1958 before the Board of Revenue.

9. In case, where application for mutation is filed on the basis of Court Order directing mutation of Government land in the name of private person, the concerned Tahasildar shall file appeal in consultation with Government Pleader.

10. Mutation cases may be dropped where the stay has been obtained from higher courts.

Above instructions may please be brought to the notice of all Tahasildars. Any deviation from the instruction shall be viewed seriously.

Yours faithfully

Principal Secretary to Government

Memo No. 16450 /R&DM dated. 7/5/2018

Copy forwarded to all Sub-Collectors / Tahasildars for information and necessary action.

Additional Secretary to Government

Memo No. 16451 /R&DM dated. 7/5/2018

Copy IMU Cell for information and necessary action.

Additional Secretary to Government