

## **PROJECT REPORT**

Detailed Procedure for Settlement of Land Recorded as Bebandobasta Status in RoR to Rent Where in the Remark Column of the RoR, Status of the Holding Before the Vesting is Mentioned as 'Service Tenure'.

**Submitted by :**

**Sonali Subhadarshinee**

**Additional Tahasildar, Puri**

**18<sup>th</sup> Batch ORS Induction Trainee Officer at ROTI**

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## **I. INTRODUCTION**

In the pre-independence era, the social and economic structure of the country had been transformed to a great extent. After independence, the need for agrarian reform to change the prevailing structure and build an egalitarian distribution pattern was earnestly felt. Abolition of intermediary and provision of security of tenure was ensured. The programme included numerous issues which reduced disparities and contradictions in social and economic spheres and thus facilitated economic development.

After independence, the government has decided to abolish the system of zamindaris and jagirdaris in order to remove the intermediaries between state and peasant. The first legislation called Abolition of Zamindari/Jagirdari Systems Act was enacted in 1950s. Notification u/s- 3 and 3 A of Odisha Estate Abolition Act, 1951 was issued from time to time abolishing different intermediary interest. The last subsisting intermediary interests were vested to Government free from all encumbrances vide Notification No. 13699/EA/IND-1/74/R, dated 18.03.1974. Since then, there is no Estate or intermediary interest in the state of Odisha.

## **II. Bebandobasta**

The Bebandobasta status arises by operation of different Laws during post-independence period. The lands which are left out by the Settlement Authority at the time of settlement operation and not recorded in the Tenants' Ledger are known as Bebandobasta lands which are not assessed to rent. The Government has extended time for filling of application by the intermediate for settlement of land u/s 6, 7, and 8 of the OEA Act, 1951 till 31.12.1977 vide Letter no. 6003, dated 15.07.1977. After expiry of above mentioned time period, the non-claimed lands have been recorded as Bebandobasta status in the

newly published RoR. Two important legislations - the Orissa Merged States (Laws) Act, 1950, the Orissa Estate Abolition Act, 1951 and the Orissa Estate Abolition Rules, 1952 have relevant provisions for 'service tenure' which is focus of this study.

### III. Service Tenure

Service tenure is a grant for service rendered by different communities during reign of ex-rulers. Such grants were mostly rent free. After the merger of princely states and abolition of intermediaries' interests, the concerned laws have accorded Raiyati status to the possessor of certain types of land tenures.

The claims of such tenure holders had to be settled by prescribed authority as per the relevant sections of the Orissa Merged States (Laws) Act, 1950. As per the Section 7 (g) of the Orissa Merged States (Laws) Act, 1950, service tenures under Ex-Rulers/family (Paikas, drummers, barbers, washer men, jhankar, dancing girls etc.) cases will be recognized as deemed Raiyats and fair and equitable rent has to be fixed. Subsequent to this Act, provisions has also been made u/s 4 (1) (g) of OLR Act, 1960 that persons entitled to acquire rights of occupancy under Clauses (g) and (h) of Section 7 of Orissa Merged States (Laws) Act, 1950, are deemed to be Raiyats. Accordingly, the entitled persons and their successors are liable to be assessed with fair and equitable rent in Raiyati status. Previously, such lands were not transferable neither prior to vesting nor after vesting. Government had issued instructions to allow such transfers made till 08.05.1975 (G.O. No. 64216/R, dated 09.08.1976) except in case of trust estate and private deities made through valid Registered Sale Deed up to 25.08.1983.

As per As per Section 8 (2) of OEA Act, 1951, service tenures rendering services to villagers, commonly known as "Deshahat Jagirs". They continue to hold land on same terms and conditions as before. As per Section 8 (3) of OEA Act, 1951, lands held by personal service

tenure (Nariha Naukari, Dhobai Naukari Mafi etc.) are allowed to be settled on application on fair and equitable rent. In case of transfer cutoff date was 25.08.1983. As per this Section, holders of service tenures for personal service to the intermediary are however freed from the liability of rendering service. Those lands are supposed to be settled with them as per Section 8 A of the Act and Rule 7 of OEA Rules, 1952.

As per Para 3.V of R&DM Circular no. 3776/R&DM, dated 02.02.2017, it has been instructed that, “Lands held as service tenure under the ruler or any member of his family u/s 7 (g) of the Merged States (Laws) Act, 1950 or land held for service as village servant u/s- 8 (2) of the OEA Act, 1951, land held rendering service to the intermediary u/s 8 (3) of the OEA Act shall be settled with them or with their successors-in-interest or their transferees through transfer by registered sale deeds”.

As per Para 4 of R&DM Circular no. 44664/R&DM, dated 23.12.2017, the earlier instructions to recognise the valid transfer prior to 25.08.1983 issued vide letter no. 57677/R&DM, dated 06.12.2000 is superseded with the issue of the new Circular no. 3776/R&DM, dated 02.02.2017.

In case of transfer, the valid transfer through registered sale deeds shall be recognized. In absence of registered transfer deeds, any claim of transfer shall be rejected. Similarly, if any transfer has been made in contravention of Section 22 of the O.L.R. Act, 1960 or regulation 2 of the Odisha scheduled Area Transfer of Immovable properties (by schedule Tribe) Regulations 1956, the same shall not be honoured and rejected forthwith.

#### IV. Manner of Hearing of Cases

In case of service tenure, it will be enough for the Tahasildar/Additional Tahasildar to collect evidence through local enquiry and hearing that the persons in possession or their ancestors

were the service tenure holders under the ex-ruler or any of their family members. They were rendering the particular service without getting any payment or wages except the rent free land and are continuing to possess the land either as successors-in-interest or on the basis of valid transfer deeds executed. On being satisfied on these points, the Tahasildar/Additional Tahasildar may allow rent settlement over the land without insisting for any further oral or documentary evidence.

RoR is a vital evidence, having presumptive value and we cannot go against the entries made in the RoR unless order passed by a competent Court. Considering the entries of RoR as correct until contrary proved, the mentioning of “Service Tenure” in the remark column in RoR has evidentiary value for disposal of a Bebandobasta case.

## V. Procedure for Settlement

### Step-1

#### **Institution of Case and Verification of Records:**

- Institution of case as per the report of the Revenue Inspector in prescribed Form (Annexure A).
- Verification of records by Record Keeper.



### Step-2

#### **Sabik and Hal Comparison:**

- A correspondence needs to be made between Hal records with the Sabik records/pre-vesting records (Pre-1950 to 1965 RoR in force).
- From Sabik records, the status of the land and owner at the point of time i.e. 01.01.1927 and 01.01.1977 may be ascertained.
- From Sabik records, the instituted case will fit into Section 7 (g), 7 (h) of OMS (Laws) Act, 1950 or Section 6, 7, 8 (2), 8 (3) of OEA Act, 1951.

- From Sabik records, genealogy of Sabik land owner will be prepared and tallied with the present owner. Both Sabik land owner and present owner if tallied as ancestor, then it can be settled with present owner on verification of their documents. If it does not tally, then the land in question might have been taken into possession by way of transfer. Then, it needs to be verified whether the transfer is through registered document. If the registered document was made prior to the issue of R&DM Department Circular no. 3776/R&DM, dated 02.02.2017, then it may be settled with transferee or his successor-in-interest, subject to provision of Section 22 and 23 of OLR Act, 1960 and Regulation (2) of 1956, if applicable.
- At times it may be found that, the matter had been decided, but the Rent Schedule was produced, neither by the party nor by Revenue Inspector to Settlement Organization for which they have been recorded as “Bebandobasta”. In that case, the said Rent Schedule needs to be collected, photocopy of order passed by the then OEA-Collector or Tahasildar (Certified / authenticated by Record Keeper) needs to be obtained and order will be passed accordingly.
- At times the original OEA case instituted after commencement of OEA Act, 1951, OMS (Laws) Act, 1950, has not been disposed of till date due to Appeal, Revision, Writ Petition, SLP, etc. and therefore pending till date. Those cases need to be disposed of as per direction of the Court and in conformity with Act.

### Step-3



### Notice

- Public notice to the Gram Panchayat or Urban Local Body in prescribed Form (Annexure B) will be issued. Individual notice will be issued to the recorded tenant in the RoR and also to the person who is occupying the land at present as per report of RI

in prescribed Form (Annexure C). At least 15 days time will be given for presenting objection, if any.



#### Step-4

##### **Local Enquiry:**

- Local enquiry should be made in the village where the land is situated. Prior to it, public notice inviting objections if any should be made. By this process the actual position and possession can be ascertained properly.
- Local inquiry will be conducted and hearing will be done simultaneously, preferably in the village and Memorandum of Enquiry in prescribed format (Annexure-D) will be prepared by the Tahasildar/Additional Tahasildar. This Memorandum of Enquiry will form part of the Bebandobasta Case Record and will mention the history of land in question starting from pre-vesting period till date and how land devolved with present Raiyat.



#### Step-5

##### **If Not Satisfied:**

- Land pertaining to the cases which are rejected or disallowed should be taken to corresponding Abad Jogya Anabadi (AJA) Khata and encroachment case should be started and dealt as per provisions of OPLE Act and Rules.



#### Step-6

##### **If Satisfied:**

The local enquiry report as well as the order sheet should contain the details of the devolution and succession of right and title from the date of vesting and relationship of the present occupant to the person who possessed the land at the time of vesting. If it is a case of transfer the sale deed no., the date of execution, details of vendors



and vendees and details of interim deeds, if any, shall be mentioned in order sheet.



Step-7

**Confirmation by the Sub Collector:**

The order for settlement of Bebandobasta land made by the Tahasildar/Additional Tahasildar shall be confirmed by the Sub-Collector.



Step 8

**Salami and Rent:**

After confirmation by the Sub Collector, Salami has to be collected from the occupant of the land as mentioned below per acre basis.

Homestead	2250.00
Class-I	2250.00
Class-II	1500.00
Class-III	750.00
Class-IV	500.00

Rent has to be fixed as per prevailing rate of that village as per latest RoR depending upon Kissam of the land.



Step-9

RoR and Map will be corrected by the Record Keeper and the new Patta will be issued.



Step-10

Aggrieved person can file an appeal before the Sub Collector against the disposed case within 30 days.

The Member, Board of Revenue Odisha has the power to review any case instituted, rejected, dismissed, allowed or pending with any authority subordinate to him on his own motion.

## VI. Conclusion

The Tahasildar/Additional Tahasildar needs dispose of the Bebandobasta cases with utmost care and time bound manner, in accordance with the principles enumerated above. Necessary documentary evidence needs be provided to the Tahasildar/Additional Tahasildar from the District/Directorate of Maps and State Land Records for quick disposal.

The R&DM Department has extended the deadline for disposal of all the Bebandobasta cases by 30.09.2018, which must be honoured in the larger interest of people the State.

## VII. References

1. Orissa Merged States (Laws) Act, 1950.
2. Orissa Estates Abolition Act, 1951.
3. Orissa Estates Abolition Rules, 1952.
4. R&DM Circular no. 57677/R, dated 06.12.2000.
5. R&DM Circular no. 27800/R, dated 17.07.2004.
6. R&DM Letter no. 905, dated 11.01.2016.
7. R&DM Circular no. 3776, dated 02.02.2017.
8. R&DM Letter no. 44664, dated 23.12.2017.
9. R&DM Letter no. 347, dated 02.01.2018.
10. R&DM Letter no. 10302, dated 21.03.2018.
11. R&DM Letter no. 21876, dated 19.06.2018.