

# Road map for including households with semi-formal tenure in the ambit of ongoing National and State Housing Programs

## *Diagnostic findings and recommendations*

Submitted to  
**Inclusive Cities Partnership Programme**  
**GIZ**

Submitted by  
**Mahila Housing SEWA Trust (MHT)**

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## Glossary

Amrutmanohi Properties	Translates as lands meant for nectar-food. These were Lands that were donated to Mathas by Lord Jagganath Trust for cultivation. The proceeds thereof were spent in offering everyday food offering ( <i>Bhoga</i> ) to Lord Jagannath and the 'Mahaprasad' thus obtained, were distributed among the pilgrims, pupils, ascetics, and beggars. These properties were over the years subdivided and converted to residential settlements. The lands were contested by Mathas, current residents, & the Lord Jagganath Trust.
Coastal Regulation Zone (CRZ)	Under Clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, Government of India has declared the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by the tidal action up to 500mtrs from High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone.
Community Organiser	Municipal employees assigned at the ward level to inform and educate poor communities on various government schemes and helping them furnish applications under the same.
<i>Jabar Dakhal</i>	Forcible possession/ encroachment. The Jagganath Temple Trust in Puri views the current settlements that have come up on the trust's endowments as Jabar Dakhal
<i>Khatiyani</i>	Colloquial term in Ranchi, Jharkhand for the Record of Rights (ROR) document issued by the State Revenue Department in the name of the land holder
<i>Kissam</i>	Typology of land (residential, water body, irrigational etc.) as mentioned in the ROR document
<i>Mathas</i>	Mathas are monastic houses originally founded with the object of giving religious instructions to disciples and generally encouraging a religious life. Lands were donated to the Mathas for 'Amrutmanohi' by the Lord Jagganath Trust.
<i>Patta</i>	Colloquial term in Odisha for the Record of Rights (ROR) document issued by the State Revenue Department in the name of the land holder
Property Tax	
Stithiban	The term used to signify freehold tenure as opposed to restricted tenure in a ROR document.

## List of Acronyms

AHP	Affordable Housing in Partnership
AMRUT	Atal Mission for Rejuvenation and Urban Transformation
BeMC	Berhampur Municipal Corporation
BeDA	Berhampur Development Authority
BLC	Beneficiary Led Construction
BPL	Below Poverty Line
CBO	Community Based Organisation
CDP	Comprehensive Development Plan
CHP	City Hriday Plan
CLSS	Credit Linked Subsidy Scheme
CO	Community Organiser
DPR	Detailed Project Report
DUHS	District Urban Housing Societies
EWS	Economically Weaker Sections
HfAPoA	Housing for All Plan of action
HLC	High-level Committees
HRIDAY	Heritage Rejuvenation Infrastructure Development Augmentation Yojana
HUDD	Housing and Urban Development Department
ICPP	Inclusive Cities Partnership Programme
IHSDP	Integrated Housing and Slum Development Programme
MHT	Mahila Housing Trust
MHUPA	Ministry of Housing and Urban Poverty Alleviation
MP	Master Plan
NGO	Non-Governmental Organisation
NOC	No Objection Certificate
NULM	National Urban Livelihood Mission
OLA	Odisha Land Act
OUHM	Odisha Urban Housing Mission
PHEO	Public Health Engineering Organisation
PMAY	Pradhan Mantri Awaas Yojana
PMC	Puri Municipal Corporation
PKDA	Puri Konark development Authority
POA	Power of Attorney
RAY	Rajiv Awaas Yojana
RMC	Ranchi Municipal Corporation
RoR	Record of Rights
SBM	Swachha Bharat Mission
SECC	Socio-Economic Caste Census
SFCPoA	Slum Free City Plan of Action
SIO	Slum Improvement Officer
SLNA	State level Nodal agency
SLSMC	State Level Sanctioning and Monitoring Committee
SNP	Slum Networking Programme
TCPO	Town and Country Planning Office
ULB	Urban Local Bodies

## 1. Background

As part of ICPP, GIZ is providing technical assistance to national government to further the implementation of Pradhan Mantri Awaas Yojana (PMAY) in 2 states: Odisha and TamilNadu. In discussion with the Urban Development Department of Government of Odisha, it was decided that GIZ would assist Berhampur and Puri in preparing their Housing for All Plans of Action and Detailed Project Reports for implementing Beneficiary Led Construction (BLC) in the two cities. The GIZ team started with the review of eligibility criteria for BLC and current applications that were received under the vertical in the 2 cities. It was evident that one of the key eligibility criteria (that requires proof of land ownership) excludes a large number of urban poor households to take benefit from the policy. GIZ thus engaged MHT and Matthias Nohn as consultants to prepare a roadmap for including households with semi-formal land tenure (households which do not have a legal title in their name) in the ambit of BLC-PMAY in Odisha.

## 2. Research Questions

The recently launched Pradhan Mantri Awas Yojana (PMAY), offers four verticals to address the housing requirement of urban poor: (i) Developer led in-situ slum redevelopment using land as a resource (ii) Credit Linked Subsidy Scheme (CLSS) (iii) Affordable Housing in Partnership (AHP) to construct new housing, and (iv) Beneficiary-Led Construction/enhancement (BLC). Out of the four verticals, two verticals (BLC and CLSS) are demand-led, that is they offer subsidies (either as direct subsidy or in the form of an interest subsidy on a housing loan) to poor households to improve/upgrade their dwellings. According to government of India guidelines, only those households that ‘own their land’<sup>1</sup> are eligible to access subsidies under the two demand-led verticals.

The Odisha State Government has defined ‘land ownership’ as having a ‘formal’ title to their land. According to Census 2011, more than 25% of urban households in the state live in slums and other ‘informal’ settlements. Most slum households have incomes less than Rs.1.8 Lakh and fall in the economically weaker sections (EWS) category. Amongst these households in need of PMAY support, the share of households with lack of formal land title is assumed to be significantly high, due to a correlation between poverty/shelter deprivations and lack of land tenure.) Within these ‘informal’ households, there is a range of tenure arrangements forming a continuum of tenure security. Those higher up the continuum, though not fully formal, enjoy a high degree of rights to their lands. Yet, the lack of fully formal land titles prevents them from availing government subsidies and affordable mortgages from banks and housing finance institutions, as they are perceived to be high risk owing to irregular pattern of income. The key objective of this study is to prepare a roadmap to enable (at least a portion of) the households with lack of fully formal land titles to access subsidies under the BLC vertical of the PMAY. The key questions that this report aims to answer is:

- 1. What are the linkages of land tenure with implementation of BLC?**
- 2. What are the constraints that limit roll out of BLC in the select cities (Berhampur, Puri)?**
- 3. What actions and mechanisms can be adopted in the short-term, mid-term and long term to bring in more number of poor families under the ambit of BLC?**
- 4. If BLC is the way ahead to address housing deprivation, how can this housing program be integrated in the city planning and land management regime?**

## 3. Methodology

The study involved field research, including continued dialogues with urban slum residents, collecting and collating relevant land documents from slum and non-slum households, as well as in-depth meetings and interviews with key officials in planning and revenue departments at city and state level. The team also worked with local lawyers and legal experts to study statutes and laws applicable for informal housing, and prepare a legal memorandum and underwriting guidelines. The following tasks were undertaken as part of the study:

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<sup>1</sup> [http://pmaymis.gov.in/PDF/HFA\\_Guidelines/hfa\\_Guidelines.pdf](http://pmaymis.gov.in/PDF/HFA_Guidelines/hfa_Guidelines.pdf)

### **3.1. Review of secondary data**

In order to understand the urban planning and land management regime in the Odisha, MHT reviewed the statutory documents and implementation framework (including institutional arrangements) of housing programs under PMAY and Rajiv Awaas Yojana (RAY). Based on the reviewed document, the slums were characterized and identified for field visit based on land ownership and occupancy, location, slum age, tenability, housing condition etc.

### **3.2. Primary surveys in select slums**

Focused interviews were conducted in identified slums to understand the ownership rights and tenure status in regard to land and property. Documents reflecting the range of existing tenure types were collected. MHT collected the land, occupancy, and identity documents to assess the ownership rights and tenure status that the residents of various informal settlements possess.

### **3.3. Review of received applications**

MHT collected the applications (eligible & ineligible) received under BLC from the ULBs of two cities. The applications were analysed in the context of land documents & identity proof provided by the beneficiaries.

### **3.4. Interviews and meetings with key stakeholders**

Relevant government offices, including Housing & Urban Development Department (H&UDD), Municipal Corporations, Urban Development Authorities and others, such as the State Revenue Department, were contacted to understand the approach of government on implementation of past and current housing schemes (PMAY- Beneficiary led construction) in the two cities. Specific information on land ownership and legal framework for land tenure was acquired from the respective revenue departments and Jagannath Temple Trust.

### **3.5. Review of legal regime for land management**

MHT engaged the local lawyers to study the land acts and other statutes applicable for semi-formal & informal housing.

### **3.6. Preparing diagnostic report and formulating recommendations**

Based on the findings from the primary surveys and review of secondary data, MHT has prepared this diagnostic report that outlines key land tenure related issues in slum and other poor communities in two cities in Odisha. It also attempts to define and develop the continuum of tenure, as it applies to these two cities, and identify tenure documentation that reflects on the land rights from an enforceability perspective. The findings from the report may have useful lessons in approaching the redevelopment / improvements in slum areas.

## **4. Limitations of the Study**

The study focuses on two cities in Odisha Berhampur and Puri to derive larger lessons for supporting implementation of BLC in the State. Some of the recommendations outlined in the report hence might be specific to the identified cities and may not be applicable to other cities in Odisha.

As there are limitations in obtaining data pertaining to land ownerships and tenure, within these two cities, only a few slums were identified for undertaking a detailed case analysis of the tenure conditions in them. The conclusions are hence derived from a limited pool of cases. However the study provides a preliminary understanding of tenures in slums which may have useful lessons for approaching the redevelopment / improvement of slum areas.



## 5. Overview of urban governance and land planning & management regime

### 5.1. Governance of urban areas in Odisha

Odisha is a predominantly agriculture state, with the urban population constituting only 17% of the total population. The Census of India 2001 defines “urban” areas as:

- (a) All statutory places such as a municipality, corporation, cantonment board or notified town area committee, etc.
- (b) A place satisfying the following three criteria simultaneously:
  - i) a minimum population of 5,000;
  - ii) at least 75 per cent of the male working population engaged in non- agricultural pursuits;
  - iii) a population density of at least 400 per km<sup>2</sup> (1,000 per square mile).

**In Odisha, “statutory places” such are defined by two key legislations: The Orissa Municipal Act, 1950, and the Orissa Municipal Corporation Act, 2003.** As per the provisions of these acts, the State Government notifies (a) a Notified Area Council for transitional areas (population between 10,000 to 25,000); (b) a Municipal Council/ Municipality for smaller urban areas (population between 25,000 to 3 Lakh); and (c) a Municipal Corporation for larger urban areas (population above 3 Lakh). These governing authorities collectively are called urban local bodies (ULBs). The mandate, responsibilities and powers of these ULBs is also specified in the municipal legislations.

**The Orissa Municipal Act specifies two types of functions of the municipal authorities, obligatory and discretionary.** Obligatory functions include activities such as provision of water supply, construction, maintenance and cleaning of streets, collection, removal, treatment and disposal of solid waste providing and maintaining open spaces, slaughterhouses, regulating hazardous activities, removing encroachments, and registering births and deaths. Discretionary functions include providing swimming pools, maintaining dairies, urban forestry, the promotion of cultural activities, and urban planning including town planning and regulation of land use.

**The urban local bodies prepare annual budgets to accomplish their functions.** ULBs in Odisha are empowered by the municipal legislations to raise resources by levying taxes, borrowing money, and buying/ disposing assets. The primary source of revenue for ULBs in Odisha is the ‘Holding Tax’, which is calculated, based on the annual value of a holding (land and construction) depending on the nature of the holding. In the Orissa Municipal Corporation Act, 2003, the nomenclature is updated to ‘property tax’, but the rules and by-laws regulating the property tax are still being formulated.

**Despite having the ability to raise taxes independently, most ULBs are unable to generate enough revenue to meet their expenditure.** The issue is two fold: one, most cities do not have updated property databases. A significant number of properties are not included in the tax base; several properties are also inaccurately assessed, leading to inefficient tax collection. Secondly, any recommended increase in the rate of holding tax/ property tax needs to be ‘approved’ by state legislature which is politically unviable. Politicians often see their ability to provide ‘free’ goods to citizens as a reflection of their power. Hence, even if the ULBs might want to increase revenue generation through increase in taxes, such reform rarely finds necessary political support.

The finances of an Urban Local Body are managed through annual budgets prepared by the Municipal Corporation. The budget is prepared by the administrative wing and approved by the Standing Committee of the corporation. Revenue sources include holding taxes (i.e. property tax), service charges, grants and loans. Revenues are in turn spent on capital and operating expenses. Most national schemes / subsidies for infrastructure and housing programs are incorporated as grants or loans as the case may be.

While national schemes do provide funding for infrastructure improvements / housing, the ULBs normally have limited or no ability to prioritise the use of this funding based on their specific requirements, preparation of DPRs or addressing their specific land related issues.. ULBs’ involvement is limited to project implementation which often does not yield outcomes satisfactory to the ULB.

## 5.2. Urban planning regime

Urban Planning is the responsibility of the State. While the 74<sup>th</sup> constitutional amendment has placed Urban Planning as a responsibility at the local (district or metropolitan) level, this hasn't been implemented by most states. In Odisha, while the urban local bodies are charged with municipal management, service provision, and implementation of national and state level housing programs, they do not have powers to participate in the decision-making around urban planning and regulation of development. These functions are the responsibility of the State Housing and Urban Development Department (HUDD).

The key legislations that empower HUDD to undertake planning functions are the **Odisha Town Planning and Improvement Act, 1956** and the **Orissa Development Authorities Act 1982**. The latter act empowers the state to constitute urban development authorities.

Urban Development Authorities are responsible for planning the urban expansion of the city, delineating the city boundaries, implementation of policy framework and guidelines for the city. The key responsibilities of development authorities are:

1. Preparation of statutory development/ master plans and associated development regulations.
2. Implementation of Comprehensive Development Plans (CrDP), City Development Plans (CDP) & Master Plans (MP).
3. Granting permission for approval of building construction
4. Formulation and implementation of affordable housing schemes with mandatory provision for creation of housing stock.
5. According limited property rights to slum dwellers and prevent formation of new slums.

This multiplicity of agencies preparing the plan, providing basic services, and implementing government housing programs creates a potential disconnect between the needs and priorities of the urban local bodies and the vision of the state appointed urban development authorities.

## 5.3. Land management regime

The governance and urban planning regime as described in the above sections focuses on delineation of urban areas, land use, planning, and delivery of basic services. All these functions are under the ambit of the **Housing and Urban Development Department (HUDD)**, Government of Odisha.

There is a parallel regime of land management functions that deals with maintenance of a cadastre, land titling and tenure, and taxation of land. This regime also influences use of land, and its tradability. This regime of regulation is currently administered by the **Revenue and Disaster Management Department** of the Government of Odisha. However, the origins of land management regime in Odisha can be traced back to the Bengal Land Revenue Regulation of 1793 instituted then by the British East India Company. This regulation and the associated permanent settlement act of 1793 enacted to maximize revenue generation from land allowed permanent settlement on agricultural land by *Zamindars* and made them responsible for collection of land tax. This revenue was a major source of sustenance for the British Administration. Even today, it is the revenue department of the state, which is charged with the responsibility of collection of land revenue. Within the Revenue Department, the Collector is the Chief Officer in-charge of revenue administration at the district level. The district is further divided into sub-divisions headed by Sub-Collectors and Sub-Divisional Magistrates. Each Sub-Division is further divided into Tahasils headed by Tahasildars. There are 317 Tahasils in the State, which are responsible for managing revenue functions.

**Three key functions of the Revenue Department: 1) building and maintaining of land records and cadastre, 2) managing of land tenure, and 3) registering land & property transactions, particularly have direct implications on implementation of housing programs in the state.**



### 5.3.1. Building and maintenance of land records and cadastre

Land records in the state are maintained in two parts: one is a series of maps showing the geometric and location attributes of land parcels, and the second is a record of right (ROR) for each individual property that describes the ownership attributes of the land parcels. Maintaining land records is governed by provisions of the **Orissa Survey and Settlement Act, 1958** and the **Orissa Survey and Settlement Rules, 1962**. The rules require the following attributed to be recorded in the ROR:

- the name of each tenant or occupant,
- the class to which each tenant belongs
- the situation and extent of the land
- type/ use of land
- the rent and charges payable by each proprietor or landlord, tenant or occupant,
- the special conditions or incidents, if any, of the tenancy (restrictions in right)
- any right of way or other easement attached to the land

The land records are maintained at the sub-district level. There is no provision for separate management of land records for urban areas.

### 5.3.2. Managing land tenure

Since Odisha State was formed with the amalgamation of Madras Presidency, Central Provinces, Bengal, and other princely states, it inherited a diverse range of land tenure and revenue administration systems. After independence, the Odisha Government, formulated several legislations to establish a comprehensive legal framework for land reforms in the state. Key legislations include the Orissa Estates Abolition Act, 1951 that abolished the interest in land of intermediaries and vested the land with the state government, the Orissa Survey and Settlement Act 1958, Orissa Land Reforms (OLR) Act 1960, the Orissa Prevention of Land Encroachment (OPLE) Act 1972, Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006).

**As per the Orissa Survey and Settlement Act, 1958, Odisha State is the absolute owner of the all the land is the state. A person enjoying rights to use a parcel of land is referred to as the *Praja* or ‘occupant’.** Popularly however, the occupant is known as the owner of the parcel of land. Occupants’ rights to their land are not unlimited. The way in which rights to the land are held, or the mode of holding rights in land, is called tenure. The rights to use land are basically of two types:

- Freehold Rights (*Stithiban*): Occupants enjoying freehold rights to their lands can sell/ transfer their properties without prior approval of government.
- Restricted Rights: Restricted tenure lands are lands where government still has interest in the land (termed as unalienated lands). Occupants of these lands cannot carry out any transaction (transfer/ sell/ amalgamate/ subdivide their lands) without the permission of the government. These include lands distributed to landless persons/ widows (as 99 year leaseholds), or lands allotted on lease to displaced populations/ population affected by projects etc.

There are additional legal restrictions on free use of land. For example, as per the Orissa Scheduled Area Transfer of Immovable Property, 1956, and section 22 of Odisha Land Reform Act, a land parcel owned by ST / SC individuals cannot be freely traded, sold in market without the prior permission of the sub collector/ revenue officer.

Odisha being home to several important Hindu temples such as the Jagannath Temple in Puri, and the Lingaraj Temple in Bhubaneswar, also has special legal provisions to administer the land that belongs to these temples. The Odisha Land Reforms Act grants the status of a Privileged *raiyat* to these temples, trusts and the institutions of religious and charitable nature. This means that they can lease out their land for share-cropping. They also have rights to administer and manage their own lands.

For example, the **Sri Jagannath Temple Act, 1955**, contains provisions that empowers Shri Jagannath Temple Managing Committee to manage the affairs of the temple and its 'endowments', which includes properties belonging to the temple or given to other institutions/ people (like the mathas/ sevayats) for the performance of any service including the service of offerings to the deity or charity. The Act also empowers a state appointed administrator to be in charge of all land records and properties of the Temple, and for preparing the record of right and duties of different persons/ institutions connected to the temple (called *marfats*). These *marfats* however do not have freehold rights of their lands. They cannot sell, subdivide, and amalgamate properties without the prior permission of Temple Committee.

### 5.3.3. Registering land & property transactions

Registering of property transactions is also a key function of the Revenue and Disaster Management Department. When a land property transaction takes place, a deed document is prepared through which the two parties agree to the transfer of freehold ownership the two parties. These deed documents are registered with the sub-registrars' office (under the Inspector General of Registration) as per the provisions of the Registration Act, 1908; **The Orissa Registration Rules, 1988**. Stamp duty is paid per the provisions of the Indian Stamp Act, 1899; **Orissa Stamp Rules, 1952**. The list of documents required to register the land/property is available at:

[http://www.odisha.gov.in/revenue/ease\\_of\\_business/requisite\\_documents.pdf](http://www.odisha.gov.in/revenue/ease_of_business/requisite_documents.pdf)

It is important to note that the registration office only registers the land/ property transaction. Once the deed is registered, the buyer also has to apply for mutation of the land record (ROR) in his/ her name as per the details prescribed in the **The Orissa Mutation Manual, 1962**. The application form and documents required for mutation of the land records can be downloaded at

<http://odisha.gov.in/portal/ViewFormDetails.asp?vchGlinkId=GL007&vchplinkId=PL034>

## 5.4. Conclusion

The following table presents a summary of key functions related to land and housing provision in Odisha and authorities responsible for administering these:

Key functions	Responsible Authority
Implementation of housing programs	Urban Local Bodies
Provision of basic services (water supply and sewerage)	Urban Local Bodies
Building and maintaining spatial records of all properties	Tahasildar's office, State Revenue Dept.
Registering property transactions	Sub Registrar's Office, State Revenue Dept.
Mutating land records	Tahasildar's office, State Revenue Dept.
Collecting cess on all lands	Tahasildar's office, State Revenue Dept.
Preparing development plans	Urban Development Authorities (HUDD)
Regulating development (giving building permissions)	Urban Development Authorities (HUDD)

### Box 2: Key functions related to housing, urban planning, and land management

*Improving slums and informal settlements requires collaboration / coordination of many different agencies.*

Slums and informal settlements are found in most ULBs in Odisha on different types of land. They may be on private land, public land, land that is reserved for future parks/amenities as identified in the master plan, etc. National funding incentives for improving the conditions of slums and informal settlements requires ULBs to implement these programs of physical and infrastructure improvement. However, in most slums and other poor settlements, the status of land ownership is often unclear/ ambiguous. ULBs have little authority to resolve land issues (grant/improve tenure, mutation of records etc.), of these slums, thereby limiting their ability to implement physical improvements as well. Similarly, if the slums are situated on land reserved for future public amenities, environmentally sensitive zones, once again the ULBs are unable to undertake improvement programs.

## 6. Status of PMAY in Odisha

### 6.1. Institutional framework for implementation of housing programs

Recognizing the need for an effective and efficient institutional mechanism for achieving the objectives of 'Housing for All' in urban areas, the Housing & Urban Development Department (H&UDD), Government of Odisha, launched the Odisha Urban Housing Mission (OUHM) in October 2015. OUHM, state level Mission Directorate has been designated as the as State level Nodal agency (SLNA) to coordinate and implement urban housing programs across various cities in the State. It is responsible for overseeing the implementation of national housing programs, formulating housing policies and guidelines, undertaking administrative and legislative measures to implement these policies, providing technical support to ULBs in preparation of Detailed Project Reports (DPRs), approving projects, and channelling national/state subsidies to cities and/or development authorities for implementing housing programs. The High-level Committees (HLC) chaired by the Chief Minister, and State Level Sanctioning and Monitoring Committee (SLSMC) formed under the mission are responsible for policy level decision making and for approval of projects. At the district level, District Urban Housing Societies (DUHS) have been formed to ensure the planning, implementing and monitoring of work under the Housing For all. The ULBs are responsible for preparing the Detail Project Report (DPRs) and implementing housing programs in their cities.

Currently the OUHM is overseeing the implementation of PMAY in 41 cities in the state. The OUHM had carried out demand surveys in all cities to identify the need for housing and the willingness of households to participate in housing programs offered under PMAY. Based on the results of demand surveys Individual cities demand surveys and have prepared DPRs across three verticals: AHP, BLC, and in-situ slum redevelopment. Berhampur and Puri are amongst the 40 cities in the state that are implementing 'beneficiary led construction' (BLC).

### 6.2. Past national housing programs: overview and learning

Berhampur Municipal Corporation has past experience of implementing national housing programs. The city has facilitated the construction of more than 1200 dwelling units using the BLC approach under the Integrated Housing and Slum Development Programme (IHSDP) commenced in 2009. BeMC has also submitted 9 DPRs for construction of new housing units under Rajiv Awaas Yojana (RAY), all of which have been approved.

#### 6.2.1. Integrated Housing and Slum Development Programme (IHSDP)

As part of the IHSDP program, BeMC adopted the BLC approach to facilitate construction/ up gradation of 1,200 dwelling units in 22 slums in the city. The estimated cost for each dwelling unit was Rs. 2.4 Lakh. The central government provided a subsidy of Rs. 1.6 Lakh (66% of the total cost) per dwelling unit. The Odisha State Government and BeMC together contributed towards 30% of the construction cost, and the beneficiaries were expected to contribute the remaining 5% (amounting to Rs. 10,000). The beneficiaries were responsible for constructing their own houses, and the BeMC tendered out the construction of slum level infrastructure (roads and network services) to external agencies.

#### **Resolving land titles**

During the implementation process it was found that several identified households did not have a *patta* in their own name. Several households were located on ancestral properties but had no updated documents, proving their ownership and rights on the land. Several land parcels were being shared among different families without any recorded documentation. This also resulted into disharmony and dispute among families. To resolve such issues, the BeMC constituted ward Sabha committees comprised of Community Organizer (COs), Collector, and resident members from the community (30-40 member for every 100 households).

These committees were charged with identifying, and verifying the legal owners of the land in cases of family disputes, missing persons, and missing documentation (such as non-availability of death/birth certificates etc.). After the verification process, the committees prepared a final list of beneficiaries that was submitted to BeMC for final approval. Actual resolution of land titles through official mutation of records/ legal process is often a long and time intensive process. This interim arrangement of constituting a committee to resolve these issues in a participatory manner proved to be expedient. However there were quite a few objections raised with multiple people claiming their rights over a single land parcel. A few cases were filed in the court, which dragged the Municipal Corporation into litigations. The litigations reduced the ULBs confidence in adopting such measures.

### **Construction and Project Monitoring**

Construction of housing units involved clearing of site for commencing construction, line out and marking of construction areas for individual houses, procuring materials, monitoring construction, and documenting each stage of construction to claim government subsidies which were provided in instalments. As per the IHSDP guidelines, individual beneficiaries were also expected to contribute up to 5% (Rs. 10,000) towards the construction costs of their house. The community organizers offered some support to the households to navigate this whole process. However there were significant delays in the process. Several households were not able to mobilize their part of the funding. As a result several houses remained incomplete (with limited internal finishing).

#### **6.2.2. Rajiv Awaas Yojana (RAY)**

In 2013, BeMC prepared the Slum Free City Plan of Action (SFCPoA) under Rajiv Awaas Yojana (RAY). Based on the findings and recommendations of the SFCPoA, the city, with the support of OUHM and external consultants prepared 9 DPRs for redevelopment of 25 slums comprising 5012 households. The Central Government has approved all 9 DPRs and has also disbursed funds (75% of the total construction cost) to BeMC to begin the implementation process. The proposed model is to clear the entire slums and rehouse families into 4 storey apartments. Each slum household will be provided one apartment unit comprising of two rooms, a kitchen and a toilet/ bathroom unit.

BeMC is yet to begin construction work in 18 out of the 25 slum pockets. Mobilizing and convincing these communities to participate in the program is proving to be challenging. Most households in these slums possess a *patta*, which gives them legitimate rights over their land. Several households have invested in constructing permanent houses, and also have access to municipal services including piped water connection and paved access roads. They are hence reluctant to move into walk-up apartment blocks, denying access to individual lots and potentially reducing economic opportunities resulting from direct street access. These households do also do not constitute the most vulnerable of slum households that need immediate support for habitat improvement. Hence, a more appropriate approach would be to consider households in *pucca* housing as lower priority for housing up gradation.

### **6.3. Implementing ‘beneficiary led construction’**

**The BLC vertical of the PMAY provides financial assistance to individual eligible families belonging to economically weaker sections (EWS) to either construct new houses or upgrade/enhance existing houses on their own (provided they furnish adequate documentation regarding land ownership).** The eligible families can avail a subsidy of Rs. 1.5 lakh provided by the central government, and an additional subsidy of Rs. 50,000 announced by the Odisha State Government. The PMAY guidelines prepared by Ministry of Housing and Poverty Alleviation (MHUPA), Government of India outline broad parameters for eligibility under the scheme. Based on these guidelines, state governments articulate final eligibility criteria applicable for all cities in the state.

#### **6.3.1. Eligibility criteria for BLC in Odisha**

The OUHM, Government of Odisha has outlined the following eligibility criteria for identifying beneficiaries under BLC:

- Beneficiary should possess a patta/ Record of Rights (ROR) document identifying him/her as the primary landholder
- The beneficiary should not own any *Pucca* house in his/her own name or in the name of any other family member.
- The beneficiary should fall in the category of Economic weaker section (EWS) with an annual income below 1.8 Lakh.
- The beneficiary should not be enlisted/covered under any other housing scheme.

An additional requirement, stipulating that beneficiaries should have an initial balance amount of Rs. 60,000 in his/her bank account, has been removed. **Annexure 9** provides a checklist of documents that are required to be submitted with the application.

### 6.3.2. Current status of DPRs for BLC

The OUHM has identified 40 cities in the State where the BLC model will be implemented in two phases. Berhampur Municipal Corporation (BeMC) and Puri Municipality prepared and submitted DPRs under BLC in the first phase. Both the DPRs were prepared based on data from Socio-economic Caste Census (SECC) data, 2011. The SECC data provides a macro picture of the number of households falling in various income categories and socio economic groups in a particular city. Based on this data, it was estimated that 959 families in Berhampur and 650 families in Puri could be included in the ambit of the BLC scheme. However the exact households were not identified. The two ULBs hence could not provide a list of beneficiaries (with supporting data on their incomes, land ownership, house ownership etc.) as part of the DPRs. The national government approved the DPRs in principle, but in the absence of a verified list of beneficiaries did not sanction any funds at that point. BeMC and Puri Municipality started inviting applications from households interested in participating in the BLC scheme in 2016. The two local bodies generated awareness about the scheme through advertisements in the local newspapers, radio announcements and on hoardings/banners. They also assigned Community Organisers (COs) in different wards in the city who supported interested households in making application under the scheme.

At this stage the state government also committed to an additional subsidy of Rs. 50,000 per household. The 2 ULBs committed to extending/ upgrading trunk infrastructure in these areas and providing piped water and sewerage connections to the beneficiary households.

As of December 2016, 1099 applications were received in Berhampur and 616 were received in Puri. The received applications were checked against the eligibility criteria established by the State Government. Only 421 in Berhampur and 371 in Puri were approved: this is 792 out of 1,715 or 46.2 per cent only. On review of the rejected applications, it could be inferred that applications were rejected for the following reasons:

**1. Households did not have a ROR document.**

*Several of these households had other legitimate proofs of land ownership (like registered sale deeds/ proof of inherited property), but were still rejected. In puri, several households were residing on Jagannath Temple Trust land. They had their names in the settlement record, but not on the ROR.*

**2. Households had a Pucca house of size greater than 21sq.m.**

**3. Households were located outside the municipal limits.**

**4. Households were already covered/ have been listed to be included under previous housing programs like IHSDP or RAY.**

**5. Applications were incomplete/ had missing information.**

The accepted applications have been approved by the OUHM. Funds have also been disbursed to the two local bodies to start the implementation process. BeMC has since then issued work-orders to the approved households. A few families have also started the construction process.



### **6.3.3. Framework for implementation**

#### Generating demand among poor households

**The current approach for identifying poor households that need government support for housing/infrastructure improvement is based on ‘demand from individual households’.** People are made aware of the housing scheme, its eligibility criteria and the application process through newspaper advertisements, notices and circulars in ward offices. The government has also deputed community organizers (COs) in both cities. The COs are responsible for mobilizing communities, making them aware about various government schemes and ensuring their participation in these programs by helping them fill applications and acquire related documents. There are 8 COs assigned in Berhampur and 5 in Puri, to work in poor settlements (both slum and non-slum) in the cities. With limited time, the COs are not able to spend much time in organizing communities, making people aware, building trust, resolving issues with applications, and help them acquire necessary documents to support their application. Fewer numbers of applications have been received in the two cities compared to the estimates based on SECC data, demonstrating that the current approach for identification & mobilization may need enhancement.

#### Linking housing improvement with infrastructure upgrades

**Ensuring access to basic services for upgraded households (including piped water supply, proper sewage disposal mechanism, paved roads etc.) is important to ensure overall improvement in habitat conditions of the poor.** The DPRs indicate that the two ULBs will foster convergence with infrastructure programs like AMRUT to ensure that basic trunk infrastructure is extended in areas where the housing programs are implemented. However the mechanism of extending infrastructure inside the communities is not fully defined.

The applications received and approved under BLC in the two cities are spatially distributed in different settlements across the two cities. The ULBs will need to map this distribution of beneficiaries to identify the need for community level infrastructure improvements.

#### Ensuring implementation on ground

**BeMC and Puri Municipality have both issued work-orders to the households whose applications have been approved. The households have to start construction work on their houses within 90 days of receipt of the work order.** The families can either construct the houses on their own or can engage contractors/workers. The payments will be released in instalments based on stages of work. It is often difficult for individual households to manage the construction of their houses efficiently and timely. Navigating the whole process, including procurement of materials, managing labour, and monitoring construction on their own is complex and time consuming and poses a big opportunity cost for the poor.



## 7. Linkages of land tenure with BLC implementation: Findings from Berhampur & Puri:

### 7.1. Overview of urban governance



Figure 1: Location of Berhampur

**Berhampur is a municipal town with a population of 3.5 Lakh, located in the Ganjam District on the coast of Odisha. It is one of the oldest cities in Odisha and is spread over an area of 39 Sq. km.** The town acquired the status of a Municipal Corporation in 2008. Berhampur Municipal Corporation (BeMC) is the local government responsible for administering the city and providing basic services and infrastructure.

**Puri, located on the coast of Odisha has a population of over 2 Lakh, and is spread over an area of 16.3 sq.km.** The town holds significant religious importance and is home to the Jagannath Temple, a prominent pilgrimage site for Hindus, and also the city's presiding deity. The growth of the city has happened around the Lord Jagannath Temple, which is located in the centre of the town. The Jagannath Temple Trust (managed by the Sri Jagannath Mahaprabhu Marphar Mandira Parichalana Committee) is also one of the largest landholders in the city with over 4.8 sqkm (30%) of land under its jurisdiction (Tehsildar, Puri). Puri Municipality is the local government responsible for administering the city and providing basic services and infrastructure.

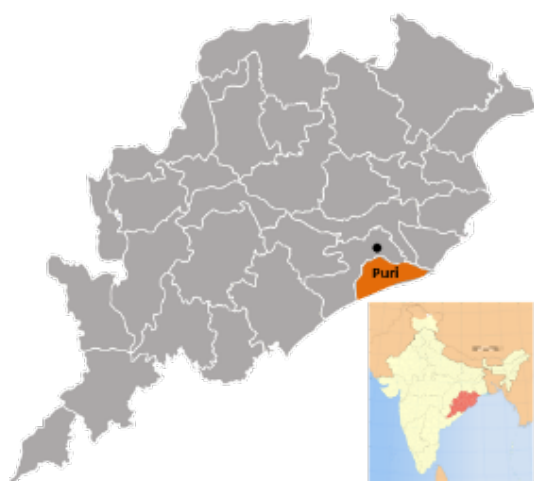


Figure 2: Location of Puri

The key responsibilities of BeMC and Puri Municipality as described under the Orissa Municipal Act of 1950 include provision of basic services (piped water supply, drainage, transport, public health etc). Undertaking slum improvement and up gradation activities and provision of affordable housing is also a key function of the two local bodies. BeMC and Puri Municipality collect holding tax from all property holders, which is the prime source of revenue for the city governments.

**While the two local governments are responsible for ‘service provision’, they have limited authority over land management and planning functions in the city.**

In Berhampur, the Berhampur Development Authority (BDA), a paras-statal agency constituted by the Odisha State Government under the Odisha Development Authority Act, 1982, carries out land planning functions. BeDA has a jurisdiction over the areas under Berhampur Municipal Corporation, Notified Area Councils of Gopalpur and Chatrapur, and 139 villages. Similarly, the Puri Konark Development Authority (PKDA) is the designated planning agency for the Puri Municipality, Konark Municipality, and surrounding 131 revenue villages comprising an area of 296.33 sq.km. The land management functions (including registration of land and property transaction), updating ROR documents, collection of cess on lands etc. are carried out by the Tahsildar's Office (under the State Revenue Department).

In Puri, however, the State Revenue Department does not have any stake in the land recorded under the name of Sri Jagannath Mahaprabhu Marphar Mandira Parichalana Committee. The Jagannath Temple Trust is an independent authority and has its own revenue department that has the right to prepare Record of Rights for all its properties (and endowments), and handle all land related issues. The rights have been conferred to the trust under the Shri Jagannath Temple (Administration) Act (XIV of 1952).

## 7.2. Existing slum profile

The Slum Free City Plan of Action (SFCPOA), prepared under RAY is the most current database on slums in the two cities. This section provides an overview of key characteristics (population, location, access to services, land ownership etc) as recorded in the SFCPOA.

Berhampur has 163 slum settlements comprising close to 16,400 households (approximately 20% of the city's total population). The slums are dispersed across the city, and are largely located on non-hazardous/non-objectionable lands. 30% of slums are situated on land earmarked for major transport alignments, and another 8% are in low-lying areas (around nallhas, drains and water bodies). The size of settlements ranges from 13 households to 375 households. 44% of the total slum households own their land (with a Patta in their own name or in the name of forefathers). 6% slum households are on private lands purchased through grey market transactions, 10% households are on encroached public land, and the remaining 38% households are living in rental units.

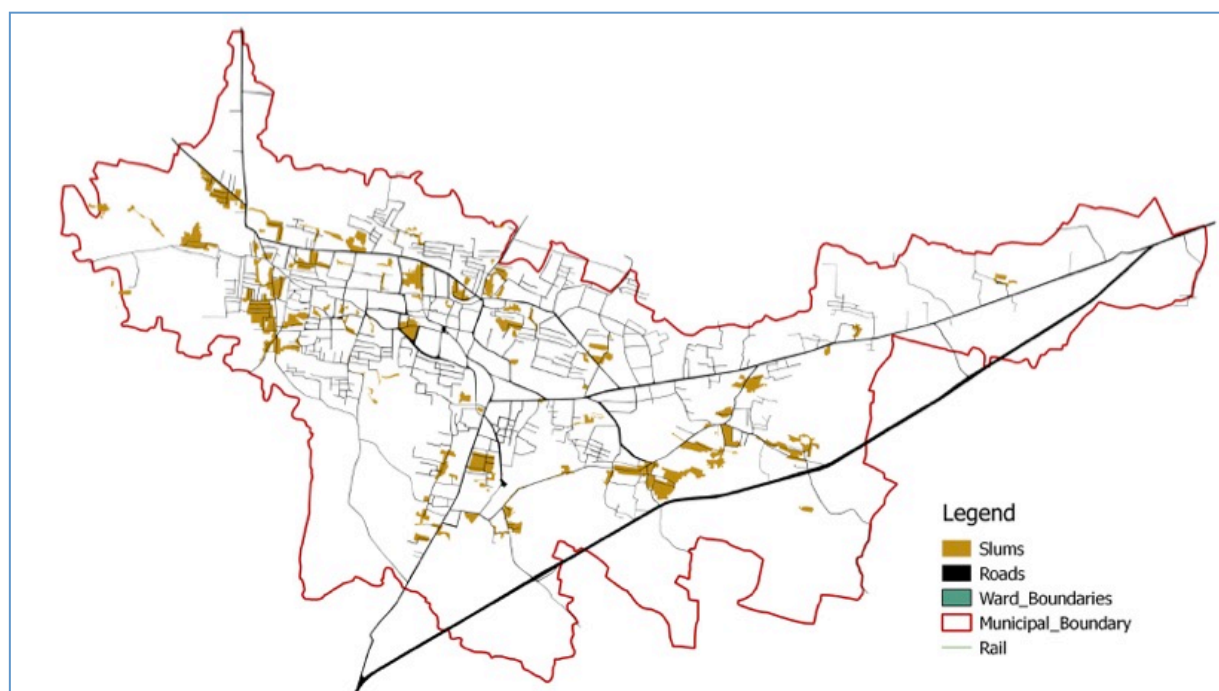


Figure 3: Berhampur slum map prepared under RAY

More than 50% of the total dwelling units in slums are permanent (*pucca*) structures and another 27% are semi-permanent structures. The typical dwelling unit size ranges from 15 to 45 sqm. The quality of housing stock in most slums is decent, access to infrastructure is largely limited. Only 27% slum households across the city have access to municipal piped water supply. Most slum settlements rely on private sources for provision of water. Access roads for 37% households are *kuccha*/unpaved with little provision for drainage of water.

Puri has 62 slum settlements comprising approximately 14,324 households (35% of the city's total households). The plan has categorized 50% of these slums as tenable (where in-situ up gradation/improvement is viable), 13% semi-tenable, and 37% as untenable (requiring relocation). More than 50% of all slum households are located on municipal land, 16% households on temple lands (belonging to Jagannath Temple Trust, and other trusts belonging to other major and minor deities), 4% on railway land, and 3% in the area demarcated as sweet water zone (under the jurisdiction of Public Health and Engineering Organization (PHEO)). 24% of all slum households own their land.

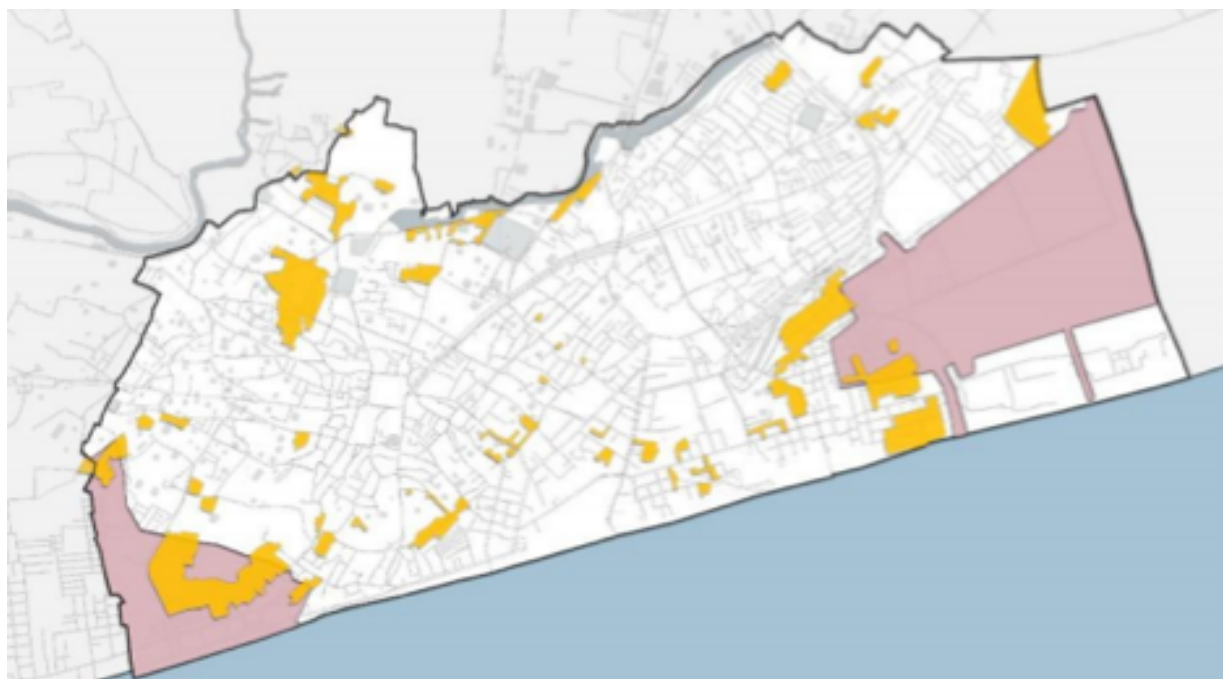


Figure 4: Location of slums in Puri Municipality

#### Environmentally Sensitive Zones in Puri

##### Sweet Water Zone

Puri has demarcated two zones in Chakratirtha and Baliapanda comprising an area of 705 Acres as **Sweet Water Zone (SWZ)**, which act as main ground water source for water supply in the city. These zones are hence declared environmentally sensitive areas, where any construction activity is legally prohibited. However government authorities have not been able to enforce construction activities. Currently the two SWZs have several residential developments, hotels, commercial shops as well as institutional buildings occupying more than 132 acres. The aquifer zone in Baliapanda has two major slums: Bijayata Nagar & Maheshwar Nagar. Puri Municipality has extended leases to poor households in the sweet water zone. However, as per notifications by the State HUDD, and Revenue Department in May 2000, "any sale /lease /transfer/renewal of lease of the water works reserve lands by Puri Municipality/ Revenue authority/ anybody else and any construction made in these prohibited areas shall be treated as illegal and unauthorized." It further explains that "any person who buy lands or constructs in the area will have no right, title and interest over such lands and the authorities/individuals involved in the sale proceeds of such lands shall be proceeded with under law". In 2010, PHEO directed the Puri Municipality and other government authorities to remove all 'encroachments' to vacate the area. However no eviction has happened till date on ground. Under City Hridaya Plan (CHP) 2016, the city has proposed to preserve the SWZ and rehabilitate encroachments and slums.

##### Coastal Regulation Zone

Being a coastal town, the coastal stretch of Puri within the municipal limits falls under Coastal regulation Zone II as defined by "Environment (Protection) Rules, 1956". As per the zone regulations, no construction is allowed from the coastline within a buffer of 200m. Within the next 500m buffer, some construction is allowed with restrictions. Several buildings have cropped up in the zone in violation of the regulations. Pentakota is one of the largest slums in Puri that falls in the CRZ. The slum with more than 1000 households majorly comprises the fishermen community that has been living here for more than 30 years without any basic services. The National Green Tribunal has asked PKDA to demolish all the illegal structures in the CRZ. PKDA has issued a demolition notification for 316 structures (hotels and commercial establishments). Approximately 72 structures have been demolished. Owners of remaining properties have filed cases in Courts, verdict for which is pending.

#### Box 3: Environmentally protected areas in Puri





Figure 5: Slum located in Baliapanda Sweet Water Zone

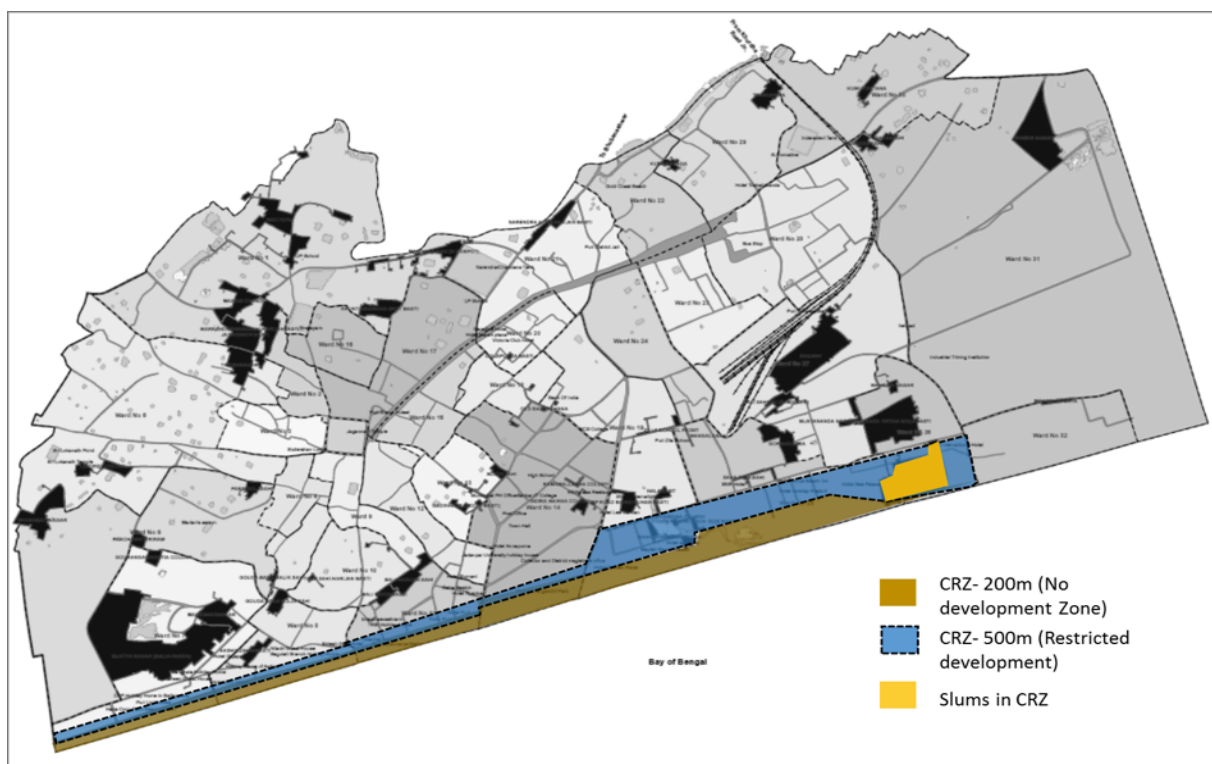


Figure 6: Slums located in Coastal Regulation Zone (CRZ), Puri (Source: CPH, 2016)

While other landowners in these zones continue to enjoy rights to their lands (pending the verdict of the court cases), government authorities have proposed to evict and relocate slum households present in the SWZ and CRZ. Currently these slum households (even those with RORs on their own name) are not eligible for subsidies under the BLC scheme or any other service and infrastructure improvements.

### 7.3. Establishing the land tenure continuum

As outlined in section 5.4, as per the current eligibility criteria, only those households that are ‘fully formal’ are eligible for subsidies under BLC. All other households are deemed ‘informal’.

**However, it is important to recognize that formality is not a binary condition, ie a household can either be formal or informal. Rather there is a continuum of conditions between a 100% formal household on one end and a 100% informal household on the other end. This continuum is not limited to slums, even societies and middle class housing that we otherwise assume to be formal have degrees of informality. In order to maximize the benefits of housing subsidy schemes, it would be important to allow those households whose slightly informal tenure can be converted into formal tenure, to be included within the ambit of the schemes.**

#### 7.3.1. Tenure continuum based on land and planning rights

The first step towards this is to understand the various types of intermediate land tenure arrangements that exist in the two cities and map them on a continuum ranging from fully formal freehold and complete lack of land rights. This continuum is defined based on profiling select households in a sample of slum and non-slum settlements in Berhampur and Puri.

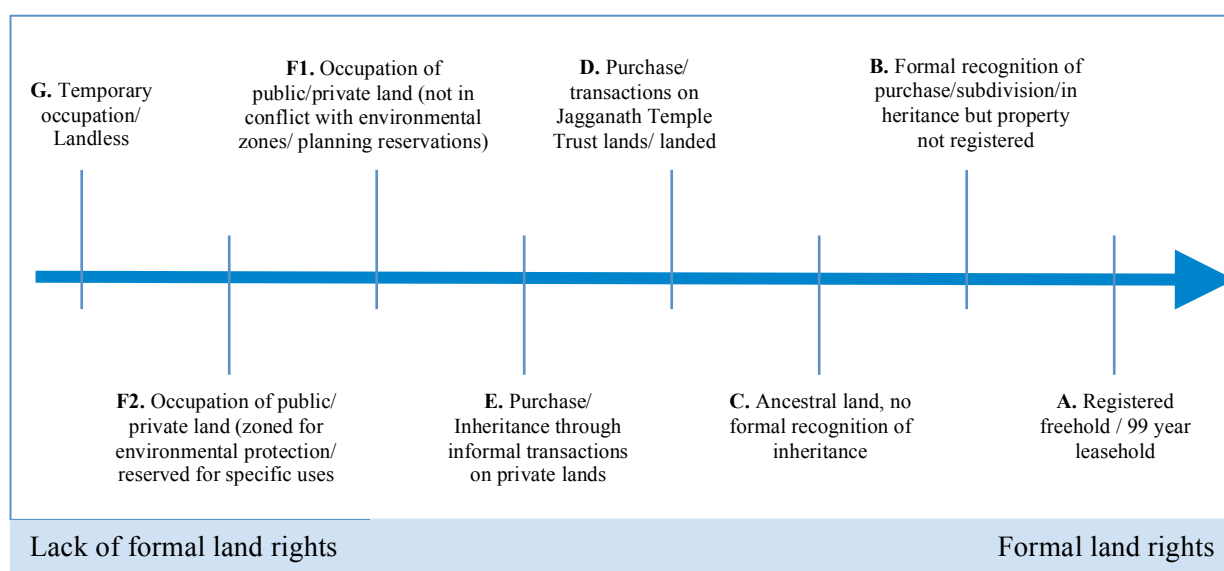


Figure 7: Land tenure continuum in cities of Odisha

The existing land tenure continuum ranges from fully formal freehold to landless (e.g. pavement dwellers). Between the two extremes intermediate categories coexist, many of which illustrate legitimate land rights, albeit these rights have not yet been fully recognized through permutation of land records in the revenue cadaster. The tenure continuum can be organized into five broad categories:

- Full-Formal (Category A in the above continuum): Possession of land with clear land titles.
- Near-formal land tenure (Categories B and C): Legal occupation and possession of land, only lacking title registration.
- Semi-Formal land tenure (Categories D and E): Occupation and possession of land after incompletely recorded/informal transfer/subdivision. This category also includes property transactions that are disputed/ not legally recognized.
- Occupation (Categories F1 and F2): *Occupation without proof of possession/* transaction, due to lack of precedence of any legitimate transfer/subdivision.
- Landless (Category G): Tenants, pavement dwellers etc. with no land rights



### 7.3.2. Establishing rights over land: description of documents

This section provides a brief description of the types of documents that can be used in support of establishing land rights of households/ individuals for the range of tenure types. These documents were collected from various settlements in Berhampur.

#### A. Registered freehold

Type of document: ROR/ *Patta* Document on own name

A *patta* or the Record of Right (ROR) document issued by the State Revenue Department is a legal document that establishes formal land ownership in Odisha. In Odisha, the State Govt. legally ‘owns’ all land; hence the landowner’s name is reflected as the primary landholder. The ROR also specifies the location and dimensions of the land parcel, typology of land (*kissam*), and freehold tenure (*stithiban*) versus restricted tenure. To establish registered freehold an individual needs a ROR in his/her own name. The ROR should reflect *stithiban* tenure. The ROR can be obtained from Tehsildar’s office in the concerned administrative district in a format prescribed by the Revenue Department and usually take 3-4 months to complete the process of mutation (for undisputed cases).

The image displays two pages of a Record of Right (ROR) document. The left page is the front cover, featuring a circular stamp with the text 'RECORD OF RIGHT' and 'ODISHA'. It contains handwritten details such as the name '1/06', the date '20/07', and the name 'Rajendra Kumar'. The right page is the back cover, which is a table with columns for 'S. No.', 'Area', 'Cultivation', 'Assessment', and 'Remarks'. The table contains several rows of data, including land parcels with areas like 2.00, 1.99, and 4.84. The bottom of the right page has a signature and the date '28/08/2008'.

Figure 8: The ROR (*Patta*) Document

#### B. Formal recognition of purchase/subdivision/inheritance but property transfer not registered

Type of document (s): Registered Sale Deed/ Registered Partition Deed/ Registered Will Deed/ Registered Gift Deed

A registered sale deed is a legal document that formally recognizes a formal transaction of land/immovable property transferred under Sec.17 of the Registration Act, 1908. The sale deed has to be validated by the concerned Sub-Registrar Office (based on where the land parcel is located). It is an essential document required for further transactions of a property.



A registered partition deed similarly is a legal document that ensures the formal subdivision of land/immovable property under the Registration Act, 1908. The partition deed is executed by the co-owners and has to be registered at the office of the sub-registrar of the place where the property/land is situated. A partition deed is generally executed on a stamp paper and drafted in a clear and unambiguous manner. The share of each person should be clearly and explicitly specified. A registered partition/ sale however does not automatically result in change in land records. The landowner has to apply for mutation of ROR at the Tahasildar's office under Orissa Land Reforms Act 1960 by filling Form-3 and attaching the registered deed as evidence.

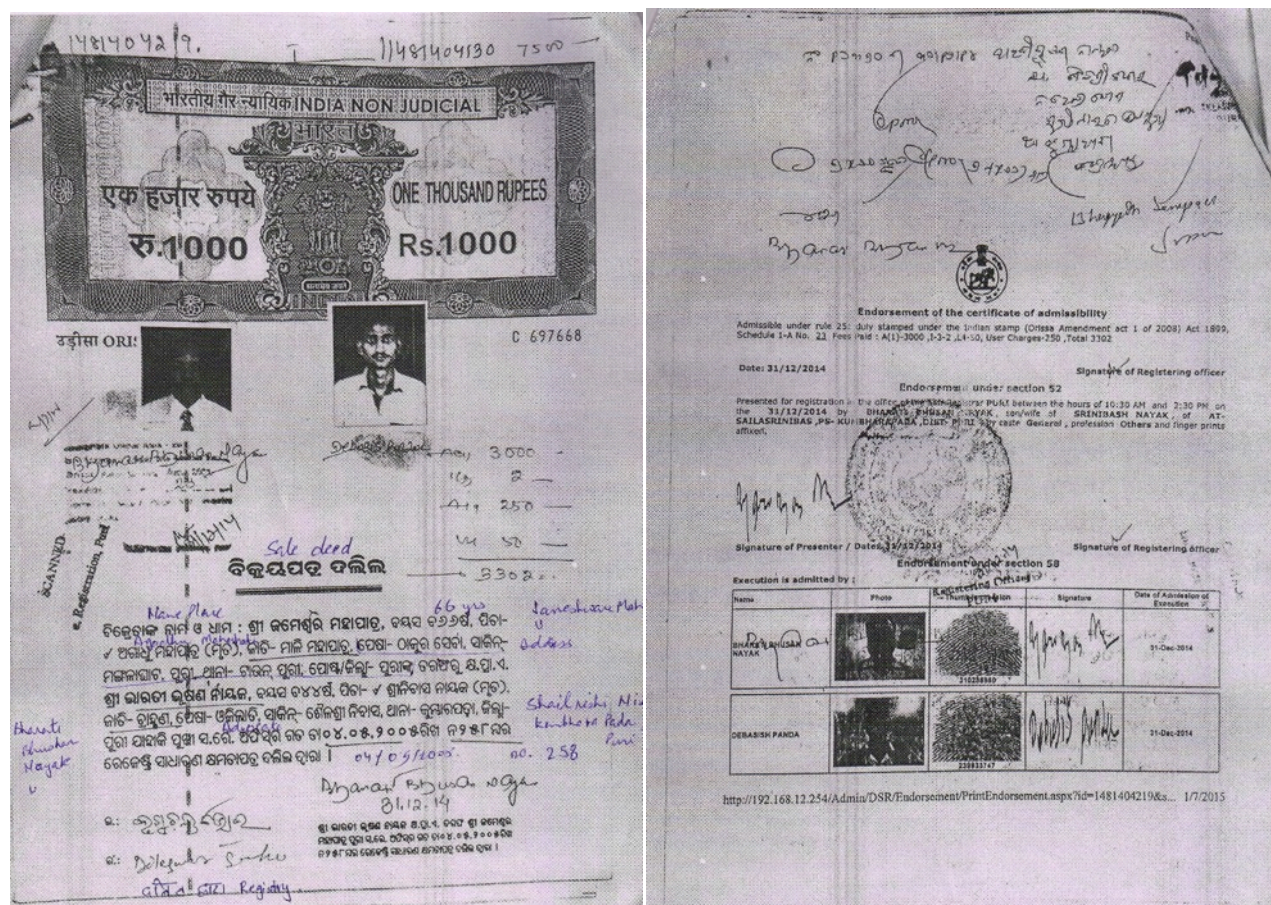


Figure 9: Registered Sale deed

The sale deed shows the details of both the parties i.e. seller and buyer, description of property to be transferred (plot number, its area, construction details), amount paid by the buyer to the seller and the mode of payment. The Sub-Registrar Office via the official seal has validated the deed.

### C. Ancestral land/ husband's land with no formal recognition of inheritance

Type of document: ROR in ancestor's/ husband's name, power of attorney

Several households possess ROR documents in the name of ancestors/ relatives but are not able to establish their inheritance legally. Frequently, there are also internal disputes within families regarding lands inherited without recorded documentation. There are also cases where widows or wives or missing husbands, in the absence of legal documents (marriage certificate, wills etc.) are not able to establish their rights over the land and claim government subsidies to improve/ upgrade their houses.

We came across evidence where instead of entering the land mutation process, which is long and tedious, family members have resorted to instruments such as Power of Attorneys to transfer land to children/relatives.



Power of attorney (POA) is a legal instrument through which one person can authorize another person to act on his/ her behalf in legal or financial matters. Generally, it is signed and notarized by a certified notary advocate, who is able to declare that both parties are competent at the time of signing the document to issue the said power of attorney. While the POA is generally considered valid for sale/purchase of property in blood relations, the Supreme Court has deprecated the practice of sale of immovable properties through a POA, and said such transactions cannot be treated as completed transfers or conveyances. In cases of immovable properties worth more than Rs100, the transaction must be registered as a deed. In the absence of such a deed of conveyance (duly stamped and registered as required by law), no right, title or interest of an immovable property can be transferred. An attorney holder may however execute the transfer deed under the POA and convey title on behalf of the grantor.

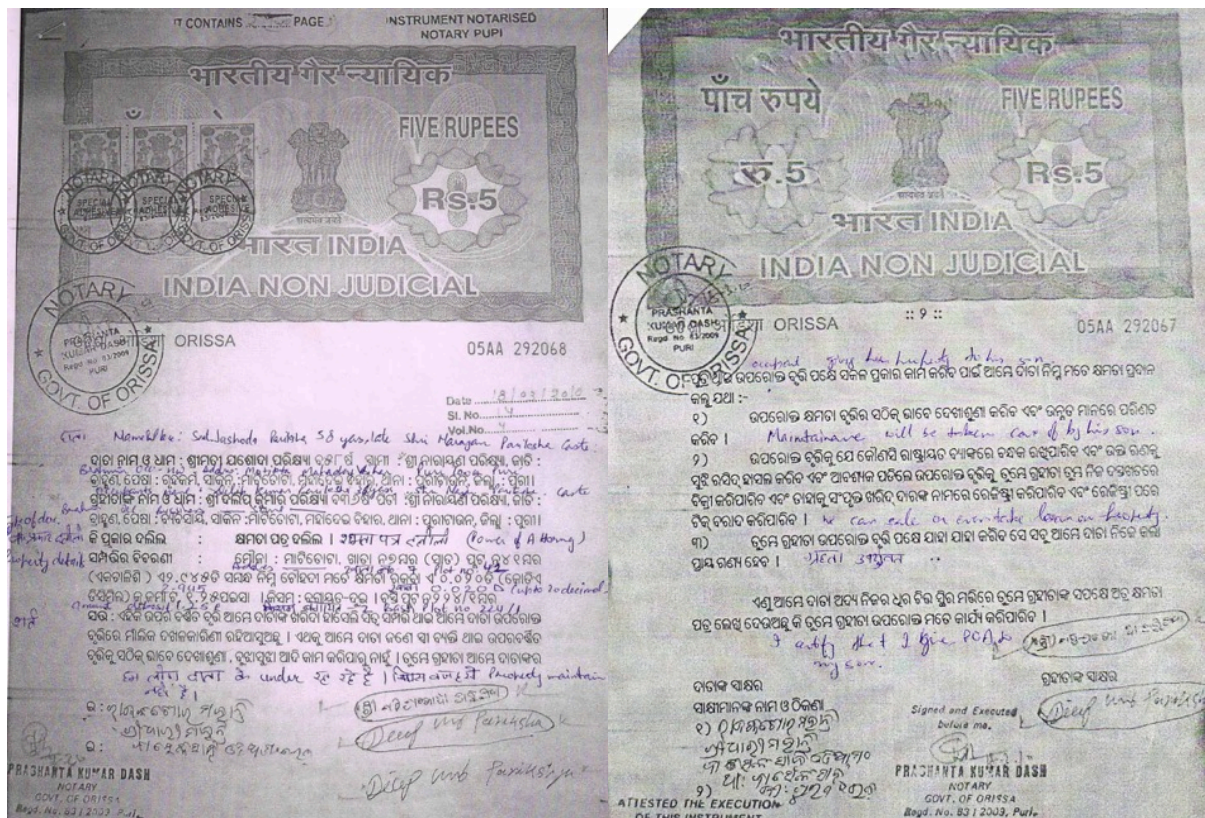


Figure 10: A POA by a mother in favour of her son

#### D. Purchase/ transactions/ transfers on Jagganath Temple Trust Lands

Type of document: ROR in the name of Jagganath Temple Trust/ Matthas, current occupiers name in the settlement sheet.

The Jagannath Temple Trust owns close to 30% of all land in the city. In addition to these properties, the Revenue Department of the trust also manages its 'endowments', which includes properties belonging to the temple or given to other institutions/ people (like the mathas/ sevayats) for the performance of any service including the service of offerings to the deity or charity. The following ROR document is in the name of Madir Prachalan Committee, Jagganath Temple Trust Puri. The back sheet of the *Patta* contains details of plots along with the name of current occupiers with whom the land is settled, area of plot settled and amount paid by occupier for it. However, given the latest Supreme Court judgement, all these transactions are now deemed invalid.

Figure 11 shows two documents related to a Right of Residence (ROR) in the name of a Temple Committee. The left document is a 'Settlement Sheet' (Form 382-A) with a circular stamp from the 'Mahila Housing SEWA Trust' and a rectangular stamp from the 'District Collector's Office'. It contains fields for 'Plot No.', 'Area', 'Value', and 'Occupier'. The right document is a 'Settlement Sheet' (Form 382-B) with a table of 'Occupiers' and their 'Share' in the property. It includes a list of names and their respective shares, along with a total value of 4474.00.

Figure 11: ROR in the name of Temple Committee, with names of occupiers in the settlement sheet

## E: Purchase/ inheritance through informal transactions

Type of document(s): Unregistered sale deed or unregistered partition deed

A sale deed albeit unregistered can help establish the rights of the landholders as semi- formal owners. It is useful as a piece of documentary evidence to show the transaction between the parties, and nature of possession, however it does not provide any legitimate rights over the land/property. Usually the transaction is recognized on INR 10 non-judicial paper. The deed specifies the name of buyer and seller; description of property to be transferred (plot number, its area, construction details); amount paid by the buyer etc., but is not registered under Registration Act, 1908. Similarly, an unregistered partition deed ensures the subdivision of land/immovable property, but is not registered under Registration Act, 1908. The sale/ partition deeds could be notarized or non-notarized. This lack of registration makes the transaction 'informal'.

These kinds of transactions are generally carried out to avoid payment of stamp duty and registration charges on deeds of conveyance, which are prohibitively expensive for poor households.

In several instances these transactions are carried out on lands that are in conflict with the statutory master plan, like lands reserved for environmental protection or for public infrastructure (e.g. roads or parks), and hence are condemned for acquisition by the implementing agency. It is often beneficial for owners of such land to sell it to unaware/ unsuspecting buyers rather than wait for the compensation in lieu of acquisition.



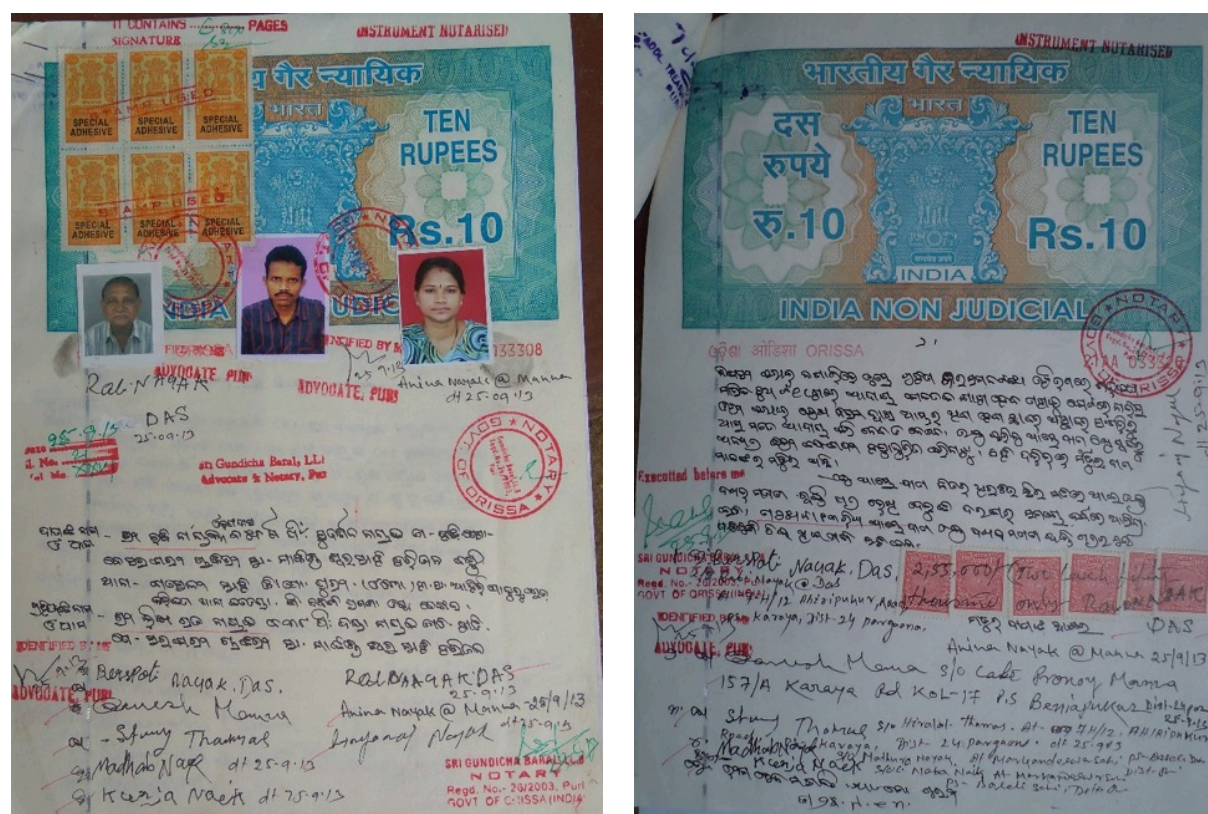


Figure 12: Unregistered partition deed (notarised but not registered)

## F1: Occupation of public/private land (not in conflict with environmental zones/ planning reservations)

Type of document(s): possession/ occupancy certificate, holding tax receipts

Occupation implies a situation where an individual/ household exercises physical control of the land but lacks any legitimate evidence of land acquisition (through a purchase/ inheritance/ lease etc.). Most of these households are located on government lands. Sometimes local governments extend leases/ provide possession certificate to these households. While these households may not be eligible for housing subsidies, they are able to access basic services and infrastructure on payment of holding tax. For those households that are connected to municipal infrastructure and pay the holding tax, the holding tax receipt can serve as a possession/ occupancy proof. In Puri, several households located on public lands have legal water connections provided by the Public Health and Engineering Organisation (PHEO). Water bills issued by government departments are also evidentiary proofs that establish occupancy for a given time.

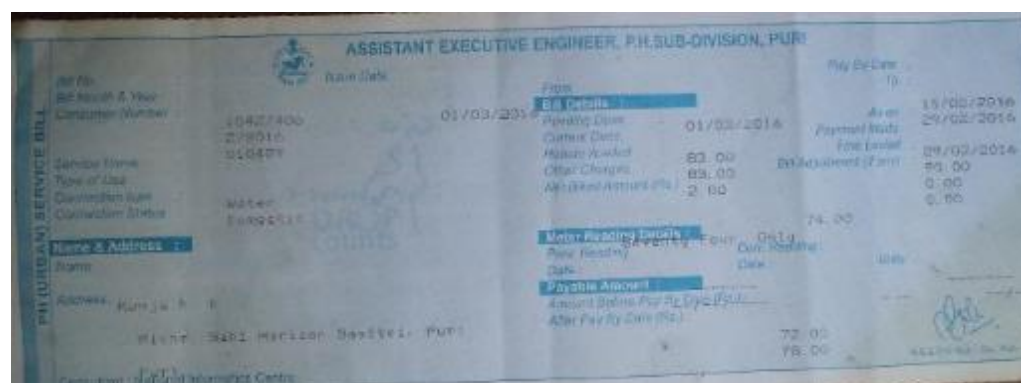


Figure 13: Water bill receipt issued by PH sub-division, Puri

Form-I  
[Rule 188]

Ward No. 26  
Holding No. —  
Asst. No. 17675

Received the Sum of Rs. 752.04 Rupees Thirty Five Ps. Four

Name of assessee Smt. K. Satya Anma

on Municipal Taxes as per detailed below.

TEMPORARY RECEIPT	Old arrears	Previous Year				Current Year				Total Amount
		1st quarter	2nd quarter	3rd quarter	4th quarter	1st quarter	2nd quarter	3rd quarter	4th quarter	
Land tax										
Holding tax										
Water tax										
Electricity tax										
Other taxes										
<b>Total</b>										<b>752.04</b>

Rs. 752.04 Rupees Thirty Five Ps. Four Date 16/10/2004

Tax Collector

Type of document(s): possession/ occupancy certificate, holding tax receipts

Slums that are located on environmentally sensitive/ hazardous lands/ reserved lands fare on the far end of the land tenure continuum. These households have the least amount of tenure security and also the most vulnerable to natural disasters, disease, and other risks on account of the lack of infrastructure and poor living conditions in the community. Most households in such slums, will at best possess some sort of identity proofs (like Aadhaar Card) and/ or Below Poverty Lines (BPL) cards issued by the local government that makes them eligible for other government subsidies like food through the public distribution system.

## 7.4. Conclusion

**Lack of formal proof of formal land tenure is a critical constraint that inhibits poor households to participation in the BLC scheme. Currently only those households that are in the far right of the tenure continuum (fully formal) are eligible for subsidies under the BLC scheme.**

The Prime Minister's housing scheme (PMAY) is designed to alleviate severe shelter deprivations of Indian households. However, with the current eligibility criteria for BLC a large share of households living with housing deprivations is excluded from government support. Households in the 'near-formal' and 'semi-formal' categories could be considered for inclusion in the BLC scheme. This would require the state revenue department and the urban housing and development department to collaboratively work together to provide long term and sustainable improvements to conditions of slums and informal settlements.

## 8. Conclusion and key recommendations

The PMAY scheme document formulated by MHUPA provides broad guidelines for defining the eligibility criteria and leaves the specifics of defining the eligibility up to the State Governments. The flexibility allowed in the guidelines enables the states to define their own criteria based on local conditions. This provides an opportunity to Odisha Government to align the criteria to the specific needs and conditions (related to land, infrastructure provision, access to finance etc.) of the poor in the state and maximize the impact of the housing schemes. The Government of Odisha as well as ULBs in the State are already acting to address the identified challenges, adjusting the policy framework. For example, the State Government has relaxed the upfront cash requirement (included in the earlier scheme guidelines) in order to improve socioeconomic inclusion of potential beneficiaries. Similarly, Berhampur Municipal Corporation is looking at potential linkages between the World Bank funded infrastructure improvement project and housing improvements through BLC. Implementation of PMAY in general and BLC in particular may be further advanced through multiple strategic adjustments, such as:

- Inclusion of a larger range of legitimate cases within the tenure continuum and simplifying, speeding up, facilitating tenure formalization, as applicable.
- An area based approach towards settlement and home improvement, moving from a housing-only to a habitat approach.
- Linking to other administrative processes (e.g. overall city planning; city-wide mapping and enumeration of substandard area-based clusters).

Key recommendations for resolving land tenure issues in slums and advancing the implementation of BLC in the State are summarized below.

### 8.1. Facilitate inclusion of households with near-formal/ semi-formal in the BLC scheme

#### 8.1.1. Organize joint camps with Revenue Department for updating RORs

Category B in the land tenure continuum (7.3.1) includes households who have purchased their lands through legal registered transactions. They only lack the permutation of the land record (patta) in their name. Thus, this category may easily be included under the ambit of the scheme through permutation of records. However, current processes of registering transactions and mutating land records are excessively complicated and time-consuming. On an average, the process of acquiring Patta requires multiple steps and takes at least 4 months (if undisputed). Most poor households are unable to dedicate the excessive amount of time to pursue the process.

**To expedite the process, ULBs can consider organizing joint camps with the tehsildar's office/ State Revenue Department. The Revenue Departments intermittently hold such 'camp courts' in villages and rural areas to dispose revenue cases and prepare of land records (RoR).**

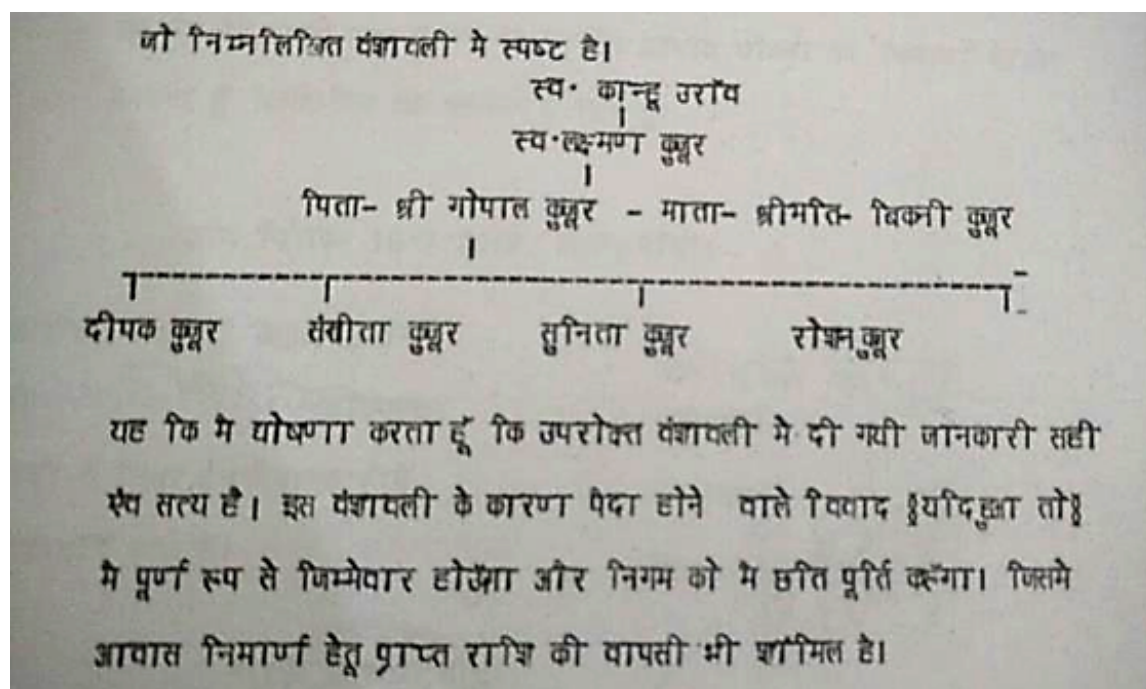
#### 8.1.2. Consider alternative documentation to establish land rights as an interim arrangement

Category C includes households that possess ROR documents in the name of ancestors/ relatives but are not able to establish their inheritance legally in the absence of recorded documentation. There are also cases where widows or wives or missing husbands, in the absence of legal documents (marriage certificate, wills etc.) are not able to establish their rights and claim government subsidies to improve/ upgrade their houses.

**In these cases, the BeMC can consider establishing an interim arrangement to facilitate a heredity record (*vanshavalī*) and domicile certificate approved by a local committee/ elected councillor, like it did during the implementation of IHSDP. The Ranchi Municipal Corporation (RMC) has demonstrated this process to implement beneficiary led construction under RAY (Rajiv Awaas Yojana).**



RMC was unable to start the implementation on ground for almost a year. One key challenge in implementing RAY in Ranchi was resolving land issues. According to RAY guidelines, implementing agencies were required to provide legal titles in the name of beneficiary households. Most households had outdated *khatiyans*/ ROR in the name of their ancestors. There were also family disputes with multiple people claiming their ownership of land. Unless these issues were resolved, RMC could not release any housing subsidies. Legally partitioning/ registering the lands through the land mutation process is a time consuming process and takes upto a few months. In order to speed up the implementation process, RMC set up an interim arrangement to facilitate a heredity record (*vanshavali*) and domicile certificate approved by local councilor. The *vanshavali* is simply put a family lineage diagram that establishes the relationship of the current landholder to the person whose name is on the *Khatiyani* document. Once this diagram was prepared, it was verified by the oldest person living in the community via an affidavit, and approved by the local councilor.



In cases of multiple families residing on a single land parcel, the *vanshavali* established the relationship for each individual family. The families then mutually decided on the subdivision/ partition of land that was also recorded on the affidavit. In some cases NOC was obtained from other heirs who were not residing on the lands. RMC then authorizes the use of *Vanshavali* as a surrogate mechanism to start construction work in the identified slum settlements. This ensured that the project was completed on time within the assigned budget.

MHT assisted the RMC to facilitate the *Vanshavali* process. MHT is currently supporting the poor households to use these *vanshavali* and affidavit documents to prepare partition deeds (in case of multi heirs of land) and formally mutate the lands in their own names.

#### Box 4: Facilitating a heredity record using *vanshavali*: Learning from Ranchi Municipal Corporation

Similarly, the Indonesian BLC scheme Bantuan Stimulan Perumahan Swadaya (BSPS) accepts notice letter from lowest-level local official who acknowledges the tenure status of his/her people without formal certificate. In turn, this letter is then considered as formal proof of tenure, making a household eligible for accessing the subsidy. It is not even required to formalize the RoR, albeit that option exists supported with a top-up of the original subsidy by the Government of Indonesia.

#### 8.1.3. Facilitate settlement of land disputes through concessional transfers

The Jagannath temple trust lands are one of the most contested lands in the State with multiple stakeholders including the Jagannath Temple Committee, Mathas, state government, and the current occupiers of the land-claiming stake on the land. The recent Supreme Court judgement has provided a legal resolution to the decades old dispute. However nothing has yet moved further on ground.

The Jagannath Temple Trust owned significant land in the periphery of the temple and also in other villages in the district. Originally this land was given to the maths by Jagannath temple for cultivation (called *amrutamohi* properties). The Jagannath Temple Trust also issued RORs in the name of the Matthas (with restricted tenure, granted in lieu of providing service to the temple). Soon the Maths became powerful institutions in themselves and started wielding their power. As the city began to urbanize, the matthas started subdividing and selling their lands through informal transactions. Over the years, most lands around the temple were occupied by such 'informal settlements'. In 1974, the State Government of Orissa issued a notification whereby the estate of Lord Jagannath was vested in the State Government (as per the provisions of the Odisha Estate Abolition Act). The notification was challenged by the Temple before the High Court of Odisha. The High Court rejected the claim of the Temple. During this time, the Municipality extended several leases (pattas) to households on the temple trust lands. When the settlement survey was carried out, the names of current occupiers were reflected in the settlement sheet.

However the Temple challenged this decision in Supreme Court and won. In 2016, the Court declared that the Jagannath Temple Trust land belongs to the trust. Subsequently, the trust is trying to change/ update the revenue record back in Lord Jagannath's name. All households residing on these lands have been issued notice to vacate the land or settle it in their favors after paying requisite premium as per the provisions of the Jagannath Land Policy.

#### Box 5: History of Jagannath Temple Trust Lands

All households residing on the Jagannath Temple lands have been issued notice to vacate the land or settle the land in their favours after paying requisite premiums as per the provisions of the Jagannath Temple Land Policy. The policy guidelines allow formal settlement through a concessional transfer, graded by time of occupation.

- Households occupying the land for more than 30 years will get a 75% relaxation per current land values. Households residing for more than 15 years will get a 55% concession and those residing for less than 10 years will get a 30% relaxation.
- Land under common amenities like roads etc. to be included as part of individual plots

**The Puri municipality can mobilize communities particular settlements to come together and negotiate a land deal with the temple trust. A typical land holding on trust land will be between 20-30 sq.m. According to current Jantri rates, those households that have been settled for more than 50 years will have to pay few Lakh rupees to officially purchase the land from the trust.**

A similar approach could also be adopted for households residing on state government/ ULB land. For example, the Puri Municipality owns significant land in the city. There are several slum settlements like Tridev Nagar that are located on municipal land. There is no current mechanism to officially sell/ lease to slum residents.

**Recently, Government of Gujarat adopted a similar policy for regularising encroached land under ULC Act in 5 cities on payment of a nominal portion of prevailing land rates.**

In 2016, Government of Gujarat announced a new policy to grant fully legal titles to households on private and government land, which were acquired by local bodies under the Urban Land Ceiling Act in five cities in the State. The government of India had enacted the Urban Land (Ceiling and Regulation) Act, 1976 to impose a ceiling on vacant land in urban agglomerations and for the acquisitions of such land in excess of the ceiling limit. In 1999, the act was repealed. However, with time various residential and commercial structures had already come up on these lands. Most occupiers are poor households, who either encroached these lands or purchased it through power of attorney/ grey market transactions.

Gujarat Government has recently ratified an ordinance to regularize all the residential properties on ULC land. Current occupants can own their land by paying a nominal portion of prevailing land rates. For plots less than 25 sqm, the rates are as low as per cent of the current rates. The rate goes up in proportion to the size of the plot. Occupiers who can prove occupancy prior to January 1, 2011 can directly apply for regularization as first owner. Those who have purchased their plots from original squatters through a power of attorney prior to June 1, 2016 can also apply, provided they have adequate proof. This policy is proposed to benefit more than 70,000 households .

#### Box 6: Policy for regularization of encroached ULC land in Gujarat

## **8.2. Adopt a cluster based approach for improving urban poor settlements**

Infrastructure deprivation is the key issue faced by slums in Berhampur and Puri (as in other cities in Odisha and in the country). While aiding housing up-gradation might be a partial solution for a few slum households, the real benefits of these up gradations will not accrue until the infrastructure issues are addressed. It is simpler and more efficient for city governments to invest in a comprehensive package of services (water lines, paved roads, storm water lines, streetlight etc.) in cases where whole/substantial portion of the communities is targeted for improvement. This 'area-based' approach also allows the possibility of cost sharing between the communities and the local government. Hence, while remaining open for individual households to apply, the strategic focus on spatially contiguous clusters. Clusters may be taken up for improvement one by one, following a strategic schedule based on larger urban development considerations, such as ease of establishing tenure, linkages with planning and infrastructure, opportunities for redevelopment etc.

**In 1995, Ahmedabad Municipal Corporation launched the integrated slum networking program called Parivartan that focussed on providing a package of basic civic amenities (individual toilets, water, sewerage connections, paved roads with storm water drainage, waste disposal, and streetlights in slum clusters. Beneficiaries contributed upto 10% of the total costs. The program demonstrated a model that worked at scale, improving the living conditions of more than 35,000 slum dwellers in the city.**

**More recently, the Ranchi Municipal Corporation (RMC) has adopted a cluster based approached to implement BLC in five slums in the city under RAY. Once the construction of the houses is complete, RMC will invest in community wide infrastructure including piped water and paved roads.**

## **8.3. Integrate BLC/PMAY into larger development planning processes.**

Up gradation/ improvement of substandard settlements requires resolving two key constraints: Land and Infrastructure. During the improvement process, spatial questions need to be addressed, such as whether the land is tenable (or, if not, if potential hazards can be mitigated or where to residents can be located, ideally nearby), whether the land is non-objectionable (or, if permitted land uses can be adjusted), whether the area has access to basic services (and, if not, how it can be provided), whether residents possess tenure (or, if not, how tenure can be secured, not only structuring compensation for formal owners but also addressing potential conflicts with urban planning and land management regimes, as discussed above). Therefore, answering these questions will require linking the housing scheme to larger urban planning and land management processes.

A more strategic process for enabling affordable housing and resolving land issues may start with city-wide enumeration and mapping of substandard clusters/settlements (with detailed information on land tenure, urban planning constraints, levels of infrastructure etc.) and identifying suitable interventions at the settlement level. Another key aspect will be to make adequate and affordable, well-located land and housing available to enable relocation of vulnerable households and to prevent the formation of new substandard settlements. To enable this, local governments, development authorities, as well as state revenue department and the urban housing and development department will need to collaboratively work together.

In the long term, the State's urban planning and land management system will also require fundamental reforms. It is essential to build and maintain a unified land cadastre (spatial database) for urban areas that links text records (with tenure and ownership details) to maps. This cadastre should easily accessible to city governments and planning authorities. The land mutation process currently requires multiple follow-ups by the buyer, even after a transaction is registered (on paying of stamp duty). Registration of a transaction should effectively trigger a mutation in the land cadastre and updation of the ROR. Such highest-level commitment from the state leadership will ensure cities that are inclusive and sustainable in the long run.

## 9. Annexures

### 9.1. Checklist for verification of beneficiary under BLC model of PMAY in Odisha

**Checklist for verification of Beneficiary under BLC model of PMAY**

Sl. No.	Particulars	Available	Not available	Remarks
1	Application form as per the format in the PMAY Guideline			
2	Identification proof (copy of Aadhaar card) Aadhar Card copy is Mandatory			
3	Ownership of land - Copy of <i>Patta</i> (RoR of land) <ul style="list-style-type: none"> <li>Whether RoR is available in the name of beneficiary.</li> <li>Whether title flows through any document (sale, gift, will, etc.).</li> <li>Copy of the recent rent receipt of the payment made to the Tahsildar</li> </ul>			
4	Annual income certificate from Tahsildar/ Affidavit of annual income of beneficiary upto Rs. 1.8 lakhs per annum in respect of all areas except Bhubaneswar where the annual income is upto Rs. 2.16 lakhs.			
5	Beneficiary account details (front page of the pass book) in any Core Banking System (CBS) branch			
6	Affidavit giving undertaking by the beneficiary that the beneficiary does not own a <i>pucca</i> house anywhere in the country. Affidavit to be enclosed.			
7	Photograph of the beneficiary in front of his/ her existing house ( <i>Kutcha /Semi-Pucca</i> )			
8	Undertaking from the beneficiary that beyond Rs. 2 Lakhs as grant from the Govt. he/ she will invest own money/ labour or both to complete the house.			
9	Any payment made to the NAC/ Municipality/ Corporation on Water tax, electricity tax, CESS, etc. (copy of the payment voucher)			
10	Any other relevant document/s			

Name, Designation & Signature of  
the Verifying officer

Nodal Officer, PMAY

Seal and Signature of the Executive Officer

\* It is to be noted that legal/ criminal/ disciplinary action will be taken against officials responsible for submitting wrong/ non-verified/ non-authenticated list of beneficiaries for approval.

## 9.2. List of stakeholders interviewed

Sr.no.	Name / Designation of Person	Institution Name
1.	Mr. Mohapatra, Joint Secretary	Department of Housing & Urban Development
2.	M Nageshwar Subidhi, Asst. Executive Engineer, (PMAY & RAY, Technical Head)	Berhampur Municipal Corporation
3.	Mr. Sushant Mishar, Commissioner	Berhampur Municipal Corporation
4.	Shri R.K. Sahu, Asst. Town Planner	Berhampur Development Authority (BeDA)
5.	Community Organisers	Berhampur Municipal Corporation
6.	Chief Finance Officer, PMC	Berhampur Municipal Corporation
7.	Executive Officer	Puri Municipality
8.	Mr. Pradeep Kumar Das, Revenue Officer	Jagannath Temple Trust, Puri
9.	Sudhananda Mohapatra, Tahasildar	Tahasil Office, Puri
10.	Community Organisers	Puri Municipality

## 9.3. Meeting minutes

### 1. Meeting with Revenue Officer, Jagannath Temple Trust, Puri: 16<sup>th</sup> November 2016

- Aparna Das, GIZ briefed the officer on the purpose of the study. The temple trust is one of the largest land owning agency in the city. More than 16% of slum households are located on temple trust land, hence it is a major stakeholder when comes to implementing housing programs in the city.
- The Jagannath Temple Trust owned significant land in the periphery of the temple and also in other villages in the district. Originally this land was given to the Mathas by Jagannath temple for cultivation (called *amrutamohi* properties). Over the years the Mathas became powerful institutions in themselves and started wielding their power. In 1974, the State Government of Orissa issued a notification whereby the estate of Lord Jagannath was vested in the State Government. The notification was challenged by the Temple before the High Court of Odisha. The High Court rejected the claim of the Temple. However the Temple challenged this decision in

Supreme Court and won. In 2016, the Court declared that the Jagannath Temple Trust land belongs to the trust. (Attached Supreme Court Judgment)

- Subsequently, the trust is trying to change/ update the revenue record back in Lord Jagannath's name. All households residing on these lands have been issued notice to vacate the land or settle it in their favors after paying requisite premium as per the provisions of the Jagannath Temple Land Policy. Broad guidelines are as follows:
- Households occupying the land for more than 30 years will get a 75% relaxation per current land values. Households residing for more than 15 years will get a 55% concession and those residing for less than 10 years will get a 30% relaxation.
- Land under common amenities like roads etc. to be included as part of individual plots
- The trust's perspective on planned development in the future: In the past temple trust has given land for amenities like bus depot etc. In the future, the trust will be open to selling land for amenities like roads according to the master plan prepared by PKDA.
- Key takeaway for GIZ-MHT team: The Puri municipality can mobilize communities in a particular settlement to come together and negotiate a land deal with the temple trust. A typical land holding on temple trust land will be between 20-30 sqm. According to current Jantri rates, those households that have been settled for more than 50 years will have to pay few Lakh rupees to officially purchase the land from the trust.

## **2. Meeting with Executive Officer, Puri Municipality, 16th November 2016**

- The Puri Municipality owns significant land in the city. There are several slum settlements like Tridev Nagar that are located on municipality land.
- There is no current mechanism to officially sell/ lease to slum residents. The Odisha land policies prohibit the local bodies from entering into such transactions. The municipality is considering the PPP approach to improve the housing condition in these slums.
- The revenue stream of the municipality is limited and the city is largely dependent on state government grants to undertake infrastructure and housing projects. Holding tax is the prime source of own revenue. Other streams of finance for the municipality include user charges, fees and licenses.
- GIZ and MHT team pointed it out to the EO that several poor families residing in slums are spending on upgrading their infrastructure (constructing septic tanks, drainage lines etc.). They also spend a lot on accessing water etc. through local mafia and slumlords, and hence will be willing to pay to the municipality for improved services.
- Key takeaway for GIZ-MHT team: Exploring creative mechanisms to support beneficiary led housing on ULB owned land. For example can part of the Rs. 2 Lakh subsidy under BLC can be channelized towards cost for land that goes to the local government (in form of lease/ taxes etc.)

## **3. Meeting with Tehsildar, Puri, 16th November 2016**

- In Puri Municipality, the breakup of land ownership is as follows:



- a. Privately owned: 40%
  - b. Government owned (Puri Municipality + State Government): 30%
  - c. Owned by various temple trusts and Mathas: 30%
- The Government of Odisha technically is the owner of all land in the state. They give occupancy rights to individual landholders and collect rent and cess on each property on an annual basis.
  - The Revenue Office has a cadaster map, which they will be willing to share.
  - There are four main ways/ channels for individuals to get a registered title/ attain their name. These include:
    - Furbishing a registered sale/ partition deed
    - Establishing oneself as the legal heir to the property
    - Through a Court Order
    - Partition among co-sharers through an order of the Revenue Officer (as mentioned under Section 19 c of the Odisha Land Reforms Act of 1960)

#### **4. Meeting with Executive Officer, Berhampur Municipal Corporation, 17th November 2016**

##### **Participants:**

1. EO, Berhampur Municipal Corporation
2. Chief Finance Officer, PMC
3. Engineer in charge of WB sponsored water-sanitation project
4. Aparna Das, GIZ
5. Anindita Mukherjee, GIZ
6. Advait, GIZ
7. Ram, GIZ
8. Matthias Nohn, International Consultant
9. Vanishree Herlekar, MHT

#### **Discussion points**

The MHT-GIZ team presented the progress of work with respect to review of applications, gaps in supporting documents, and preparing DPRs for the city. The discussion largely revolved around resolving implementation challenges in BLC on ground. There was also a discussion on the challenges and limitations that local governments face when implementing national/ state programs.

- The GIZ team presented a case for holistic slum improvement by linking the BLC with the World Bank (WB) funded water and sanitation project. Slum households can access subsidies for improving housing under BLC and can access improved water and sanitation infrastructure through the WB project. GIZ requested PMC to share any available data and maps on the WB project. The EO briefed that the project is currently concentrating on improving and augmenting truck infrastructure. No plans have yet been prepared at the slum level.