

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.2942 of 2022
(Through hybrid mode)**

Abdul Rafiqe Khan

....

Petitioner

Mr. B.Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. R.Tripathy, ASC

CORAM: JUSTICE ARINDAM SINHA

**ORDER
11.02.2022**

Order No.

- 01.** 1. Mr. Mohanty, learned advocate appears on behalf of petitioner and submits, his client and private opposite parties presented their sale deed for registration. By impugned refusal order dated 12th January, 2022, registration was refused. He submits, provision in clause (a) of sub section (2) under section 3 in Real Estate (Regulation and Development) Act, 2016 was invoked to refuse. This was in excess of jurisdiction.
2. Mr. Tripathy, learned advocate, Additional Standing Counsel appears on behalf of State and submits, statutory appeal is available remedy. The writ petition cannot be maintained.
3. In impugned refusal order, inter alia, following was said:-

“The vendors in their presented deed has enclosed the certificate of encumbrance in respect of aforesaid landed properties. On verification from the E.C., it is ascertained that, the vendors have already sold more than 500Sq. meters of land from plot No.301 out of total plotted area Ac.0.590dec. in 2 nos. of sale deeds executed on 15.01.2021 and 12.02.2021.

The aforesaid plotted area of mouza Bargarh are coming under Town Planning and Municipal area and thus needs registration under section 3(2) (a) of Real Estate (Regulation and Development) Act, 2016.”

4. The provision implies requirement of registration in event area of land proposed to be developed exceeds 500Sq. meters or number of apartments proposed to be developed exceeds it, inclusive of all phases. Impugned order does not specify the excess parameters of subject matter of the sale deed requiring registration under the provision in the Act.

5. Impugned order is set aside and quashed on having been issued without basis, thus non-application of mind. Petitioner and private opposite parties will present their documents again to opposite party no.4. Said opposite party will deal with the presentation, to either register the document or refuse it on good reason, specifying the parameters, in event the refusal is reiterated based on the provision. Either way the authority must act within a week of presentation.

6. The writ petition is disposed of.

(Arindam Sinha)
Judge