

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4876 OF 2022

***The Urban Co-operative Bank
Ltd., Sundargarh and another***

Petitioners

Mr. Bidesh Ranjan Behera, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Suvashish Pattnaik,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

05.07.2022

Order No.

2. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek for a direction to the District Sub-Registrar, Panposh-Opposite Party No.2 not to register any conveyance deed presented for registration by Utkal Gramya Bank, Basanti Colony Branch, Rourkela-Opposite Party No.3 or any other person in respect of the property mortgaged with the Petitioner No.1-Bank vide registered mortgage deed under Annexures-4 and 5.
3. Mr. Behera, learned counsel for the Petitioners submits that property in question, i.e. Plot No.183 to an extent of Ac.2.20 decimals and Plot No.211 to an extent of Ac.0.80 decimals under Khata No.269 corresponding to Draft Khatian No.179, Plot No.183/112 and Plot No.211/112 which further corresponds to current Settlement Khata No.560, Plot No.724 to an extent of Ac.0.820 decimals and Plot No.725 to an extent of Ac.2.200 decimals in total measuring Ac.3.020 decimals situated in mouza Brahmani Taranga under Lathikata Tahasil in the district of Sundargarh, has been mortgaged with the Petitioner No.1-Bank.

It has not yet been redeemed. However, the Opposite Party No.3-Bank is making an attempt to sell the property, as aforesaid, without considering that there is already a charge in respect of the aforesaid property. It is his submission that Section 34 of the Registration Act, 1908 (for short 'the Act') read with Rule 63 of the Odisha Registration Rules, 1988 (for short 'the Rules') clearly stipulates that before registering a document, the Registering Authority should make an enquiry under Section 34 of the Act in the manner provided under Section 63 of the Rules. The Petitioner has also submitted an application to the District Sub-Registrar, Panposh-Opposite Party No.2 in that regard on 7th December, 2021 (Annexure-8), which is duly acknowledged by him. He further submits that Board of Revenue in order to prevent multiple transactions of an immovable property has issued guidelines and the Inspector General of Registration, Odisha vide Letter No.2716 dated 18th August, 2015 under Annexure-7, communicated the same to all Additional District Magistrate-cum-District Registrars and all District Sub-Registrars. In spite of the specific guidelines, the Sub-Registrar is proceeding ahead to register the document in respect of the aforesaid property presented by Opposite Party No.3-Bank. Thus, the Petitioners finding no other alternative have filed this writ petition.

4. Mr. Pattnaik, learned Additional Government Advocate submits that the application under Annexure-8 was sent to the Opposite Party No.2 by Speed Post. However, Section 34 of the Act requires that a petition should be filed by the objector before the Sub-Registrar concerned. In that view of the matter, if an application under Section 34 of the Act read with Rule 63 of the Rules is filed before the District Sub-Registrar, Panposh-Opposite

Party No.2, he will be in a position to consider the same in accordance with law.

5. Taking into consideration the rival contentions of the parties, this Court is of the considered opinion that the objection raised by the Petitioners should be taken into consideration by the District Sub-Registrar, Panposh-Opposite Party No.2 before registering the document submitted by the Opposite Party No.3-Utkal Gramya Bank, Sundargarh in respect of the aforesaid property.

6. Accordingly, this writ petition is disposed of with a direction that in the event, the Petitioners make a fresh application under Section 34 of the Act read with Rule 63 of the Rules enclosing copy of the Letter No.2716 dated 18th August, 2015 issued by the Inspector General of Registration, Cuttack to all the Additional District Magistrates-cum-District Registrars and District Sub-Registrars of the State and relevant documents within a period of two weeks hence along with certified copy of this order, the District Sub-Registrar, Panposh-Opposite Party No.2 shall do well to consider the same in accordance with law giving opportunity of hearing to the parties concerned by taking into consideration the guidelines issued vide Letter No.2716 dated 18th August, 2015 under Annexure-7 before taking a decision with regard to registration of the documents and communicate the result thereof to the parties concerned.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge