

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 6504 OF 2022

Mamata Bai

.... Petitioner

Mr. Nityananda Behuria, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Suvashish Pattnaik,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

26.08.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the inaction of Sub-Registrar, Angul-Opposite Party No.4 in providing an ID number and registering the sale deed submitted before him under Annexure-1.
3. Mr. Behuria, learned counsel for the Petitioner submits that on submission of a document, the Sub-Registrar, Angul has to verify the document and issue an ID number. Thereafter, he should proceed with the registration of the document. Although the sale deed under Annexure-1 was produced before the Sub-Registrar, Angul on 24th January, 2022, but neither an ID number was issued nor the same has been registered as yet. He also submits that the plea taken by the Sub-Registrar, Angul in his counter affidavit is not sustainable as passing of consideration money is not material for registration of a document. In support his contention, he relied upon the decision in the case of ***Dahiben –v- Arvinbhai Kalyanji Bhanusali (Gajra)(D) The Lrs & others.*** in Civil Appeal No.9519 of 2019, disposed of on 9th July,

2020. Thus, that cannot be a ground to deny the registration of the sale deed. He, therefore, prays for the aforesaid relief.

4. Mr. Pattnaik, learned Additional Government Advocate submits that there are other defects like non-payment of proper stamp duty on the document. Although both the parties have admitted the defects in the sale deed itself, but they have never turned back to comply with the same. Hence, the document could not be registered as yet.

5. Taking into consideration the submission made by learned counsel for the parties, this Court is of the considered opinion that the Sub-Registrar, Angul should not hold the document with him without passing any order on the same.

6. Section-71 (1) of the Registration Act, 1908 (for short 'the Act') provides that every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situated within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2, and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

7. In view of the clear provision, Petitioner is required to file an application under Section 71 of the Act in order to take further action in the matter. Accordingly, it is directed that in the event the Petitioner files an application under Section 71 of the Act along with the document intended to be registered within a period of two weeks hence along with certified copy of this order, the Sub-Registrar, Angul-Opposite Party No.4 shall do well to

consider the same and pass a reasoned order thereon. If the Sub-Registrar, Angul is of the opinion that the deed/document in question cannot be registered, he shall supply the reasons of refusal of registration of such document within a period of two weeks therefrom.

8. With the aforesaid observation and direction, this writ petition stands disposed of.

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

bks

(K.R. Mohapatra)
Judge

