

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3026 of 2017

Abhijit Ray and another

..... Petitioners

Mr. S.J. Biswal, Advocate

-versus-

***District Sub-Registrar, Khordha and
another***

..... Opp. Parties

Mr. Suvashish Pattanaik,
Additional Government Advocate
(For Opposite Party no.1)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

19.09.2022

Order No.

- 19.
1. This matter is taken up through Hybrid mode.
 2. Petitioners in this writ petition seek to assail the action of the District Sub-Registrar, Khordha-Opposite Party No.1 in registering a deed of cancellation of relinquishment deed No.11081504140 dated 6th May, 2015, whereby he cancelled the registered relinquishment deed No.11081503056 dated 7th April, 2015.
 3. Learned counsel for the parties made lengthy argument on the issue of jurisdiction of the Registering Officer to register a deed to cancellation of relinquishment deed. However, in course of hearing, it appears that by virtue of registration of the deed of relinquishment dated 7th April, 2015, Opposite Party No.2 has relinquished her entire right upon the property mentioned therein, but subsequently she executed a deed of cancellation of the relinquishment deed, which was registered vide document No. 11081504140 dated 6th May, 2015. While registering such deed of cancellation no notice whatsoever was served on the present Petitioners, who are stated to be the beneficiaries of such

deed of relinquishment. Section 22A (1)(b) of the Registration Act, 1908 clearly stipulates that the Registering Officer shall not register an instrument relating cancellation of sale deeds without the consent of the person claiming under the said deed. In the instant case, although cancellation of any sale deed is not in question, but the same principle is applicable to registration of a deed of cancellation of relinquishment deed registered earlier. Hence, the beneficiaries/persons claiming under the registered relinquishment deed ought to have been given an opportunity before registration of deed of cancellation of relinquishment.

4. In view of the above, this Court, without delving into rival cases of the parties, disposes of the writ petition with a direction to the District Sub-Registrar, Khordha-Opposite Party No.1 to take a fresh decision with regard to registration of deed of cancellation of relinquishment deed giving opportunity of hearing to the parties. In order to avoid further delay, parties (the Petitioner and Opposite Party No.2) are directed to appear before the Registering Authority by 26th September, 2022 along with certified copy of this order to receive further instruction in the matter. Till a decision is taken afresh, registration deed No. 11081504140 dated 6th May, 2015 shall not be given effect to, which shall be subject to the decision of the District Sub-Registrar, Khordha.

5. As requested, a copy of this order shall be handed over to Mr. Suvashish Pattanaik, learned AGA for communication and compliance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge