

ORISSA HIGH COURT : C U T T A C K

W.P.(C) No.9971 of 2022

*An application under Article 226 & 227 of
the Constitution of India, 1950*

Siddhant Nayak

: Petitioner

-Versus-

State of Orissa & Ors.

: Opposite Parties

For Petitioner

: Ms. D. Mahapatra

For Opposite Parties

: Mr. S.P. Panda,
Addl. Govt. Adv.

J U D G M E N T

संक्षिप्त न्याय

CORAM :

JUSTICE BISWANATH RATH

Date of hearing & judgment : 26.07.2022

1. This writ petition involves the following prayer :-

“Under the facts and circumstances as narrated above, this Hon’ble Court may graciously be pleased to admit this writ petition, issue Rule Nisi to the opposite parties and if the opposite parties will fail to show cause or shown insufficient cause made in the said rule absolute by quashing the letter dated 17.2.2018 issued by the opposite party no.3 under Annexures-3 & 4 and the petitioner may be allowed to execute the sale deed to

alienate the property in question which stands in his name;

And further be pleased to pass any other order/orders as may be deemed fit and proper.”

2. Taking this Court to the initiation of EOW P.S. Case No.2 dated 30.01.2018 corresponding to C.T. Case No.3/2018 and a correspondence emanated through such proceeding made by the Odisha Police, Economic Offences Wing, CID, Crime Branch, Odisha dated 17.02.2018 at Annexure-3 and further taking through the aforesaid correspondences at running page 49 of the brief, Miss Mahapatra, learned counsel for the Petitioner while claiming that the name of Sidhanta Nayak-the Petitioner herein appears at Sl.No.6, also submitted that through Sl.No.10 of the aforesaid letter, there is already a direction to the Sub-Registrar, Khandagiri not to allow any kind of sale/ purchase, deed or Power of Attorney in respect of the landed properties standing in the name of M.D/Directors/ Individuals and Companies noted therein till clearance is obtained from the Hon’ble Court / investigating agency. It appears, following such instruction there is also similar correspondences to the Sub-Registrar, Jatani in the same manner and there also indication of the name of the Petitioner at Sl.No.6 and the above attachment was made through the last paragraph of the letter dated 17.02.2018 at Annexure-4 more particularly at page 51 of the brief.

3. Through the writ petition the Petitioner appears to have claimed that he has no involvement either in the proceeding pending or investigation even and thus it is claimed that there is unnecessary harassment to the persons not involved in the criminal proceeding. Through the pleadings it is also claimed that on an attempt for sale of the

property of the Petitioner, there has been denial of entertaining the sale deed for registration by the Sub-Registrar accordingly. Through I.A. No.8906 of 2022 it has been brought to the notice of this Court that in the meantime the Petitioner's attempt for registering the instrument involving the sale of his own land, has been declined by the concerned Sub-registrar. Copy of such refusal is also enclosed herewith.

4. While claiming setting aside of the correspondences vide Annexures-3 & 4 respectively, Miss Mahapatra, learned counsel for the Petitioner taking this Court to the disposal of the writ petition vide W.P.(C) No.24216 of 2021 disposed of on 7.09.2021 by a Co-ordinate Bench of this Court, claims parity of the judgment passed therein to the case at hand.

5. Mr. Panda, learned State Counsel while objecting the claim of the Petitioner involving letters at Annexures-3 & 4, however taking this Court to the plea of the Opposite Party Nos.2 & 3 through paragraph no.10 in the affidavit, claims that in the meantime the Opposite Parties concerned and the authorities involved have come forward with an affidavit indicating that there is no involvement of the Petitioner in the commission of crime in EOW PS Case No.2 dated 30.01.2018 and even Petitioner has also not been charge-sheeted.

6. Considering the rival contentions of the parties and keeping in view the dispute involved herein and correspondences vide Annexures-3 & 4 restricting sale of the land of the Petitioner for his name finds place at Sl.Nos.6 & 5 respectively, this Court in the first instance proceeds to consider the response of the Opposite Party Nos.2 & 3.

Reading through the specific response of the Opposite Party Nos.2 & 3 in paragraph no.10 of the affidavit dated 8.07.2022, this Court finds, the Opposite Party Nos.2 & 3 have the following specific stand :-

“10. That the involvement of the present petitioner in commission of crime in EOW P.S. case No.02/2018 has not been established and he has not been charge sheeted as an accused.”

7. The above statement makes it clear that there is no involvement of the Petitioner in EOW PS Case No.2 dated 30.01.2018. It is, at this stage of the matter, this Court also taking into account the claim of the Petitioner through the above noted disposed of Writ Petition and also the direction of the Co-ordinate Bench, finds, the Co-ordinate Bench in deciding similar matter has come to hold that if no proceeding for attachment of property is pending before the OPID Court involving particular petition there, the Sub-Registrar, Khandagiri, on affidavit by such Petitioner to that effect, shall accept the instrument for sale executed by the Petitioner therein for registration. This Court finds from the specific plea of the Opposite Party Nos.2 & 3 that the Petitioner is neither involved in the Criminal Proceeding nor charge sheeted as of now. Thus there is no involvement of the Petitioner in the pending criminal case as per the materials available till now. This Court finds, the Petitioner gets full support of the decision of this Court in the disposed of writ petition vide W.P.(C) No.7.09.2021 on 7.09.2021.

In the circumstance, this Court while allowing this writ petition, directs the Registrars / Sub-Registrars involved not to obstruct the registration of any instrument furnished by the Petitioner involving sale of his own property. In view of the aforesaid this Court further directs the Inspector of Police, E.O.W., CID, CB, Odisha-Opposite Party No.3 to issue at least a corrigendum involving Annexures-3 & 4 by deleting the

name of the Petitioner therein. The Inspector of Police, E.O.W, CID is also directed to issue necessary corrigendum within a week from the date of communication of this order. The Opposite Party Nos.4 & 5 are also directed to proceed for registration of the instrument to be presented by the Petitioner. It is further directed that in the event the Petitioner re-submits the instruments refused to be registered before the Registrar, Jatni-Opposite Party No.5, the same shall be accepted and registered in accordance with law, within a period of seven days from the date of submission.

8. The writ petition succeeds to the extent indicated hereinabove. There is, however, no order as to the costs.

.....
(*Biswanath Rath*)
Judge

Orissa High Court, Cuttack.
The 26th day of July, 2022//
Ayaskanta Jena,
Senior Stenographer

