

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 13799 OF 2022

Thabira Meher

....

Petitioner

Mr. Amit Prasad Bose, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

20.02.2024

Order No.

I.A. No. 9407 of 2023

7. 1. This matter is taken up through hybrid mode.
2. This is an application for recall of the order dated 14th September, 2022 by which the writ petition was disposed of as withdrawn with a warning to the Petitioner not to commit similar mistake in future.
3. Mr. Bose, learned counsel submits that since the Petitioner could not explain the real state of affairs at paragraph-6 of the writ petition, a confusion arose for which the Petitioner had to withdraw the writ petition. It is his submission that the sale deed in question was, in fact, seized by the Deputy Superintendent of Police (Vigilance), Bargarh Unit, Bargarh-Opposite Party No.3, but it was handed over to the Petitioner on 3rd March, 2016 (Annexure-E/3 to the counter affidavit) by executing a zimanama to that effect. By the time sale deed was handed over to the Petitioner, four months as stipulated under Section 23-A of the Registration Act, 1908 had already elapsed.

Hence, it was stated in paragraph-6 of the writ petition that registration could not be completed till the date of filing of the writ petition. He, therefore, submits that the order dated 14th September, 2022 passed in the writ petition may be recalled and the same should be heard on merit.

4. Mr. Mishra, learned Additional Standing Counsel submits that the writ petition was not disposed of on merit and it was withdrawn by the Petitioner. Thus, there is no scope to recall the order dated 14th September, 2022 on the ground stated in the I.A. Further, a petition for recall is not maintainable as the writ petition was withdrawn by the Petitioner. The grounds not taken in the writ petition itself, cannot be supplemented by filing a petition for recall. Hence, he prays for dismissal of the I.A.

5. Considering the submissions made by learned counsel for the parties, this Court finds that the writ petition was disposed of as withdrawn vide order dated 14th September, 2022. No ground has been stated in the I.A. that withdrawal of the writ petition was inadvertent. The Petitioner in the I.A. has tried to make out a case, which was not stated in the writ petition itself. No ground is made out in the I.A. that such a ground could not have taken by the Petitioner in the writ petition.

6. In view of the above, the I.A. being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge

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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 22-Feb-2024 12:23:26