

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14622 of 2022

Divyasnata Mohanty and another* *Petitioners

Dr. Jitendra Kumar Lenka, Advocate

-versus-

State of Odisha and others* *Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

11.07.2022

Order No.

2.
 1. This matter is taken up through Hybrid mode.
 2. Petitioners in this writ petition seek for a direction to the District Sub-Registrar (DSR), Cuttack-Opposite party No.4 to register the deed of agreement for sale executed on 8th January, 2022 between the Opposite Party Nos. 5 and 6 in one hand and the Petitioners on the other.
 3. Dr. Lenka, learned counsel for the Petitioners submits that the agreement for sale was executed on 8th January, 2022 and was presented by Opposite Party Nos. 5 and 6 on 11th January, 2022. On receipt of the said document in the office of Opposite Party No.4, ID No.392200243 (Annexure-3) was allotted. Thereafter Opposite Party No.4 sought for clarification from the Urban Land Ceiling Authority, vide its letter No.51 dated 15th January, 2022 (Annexure-4). On the plea of non-receipt of the clarification, the said document has not yet been registered. It is his contention that the land in question pertains to Plot No.2/12 under Khata No.4/1 of mouza Ramgarh in the district of Cuttack to an extent of area Ac.2.060 decimal (for

short, the 'case land'). The case land along with other plots were the subject matter of dispute in Ceiling Case Nos.5 of 1983, 11 of 1984, 12 of 1984, 13 of 1984 and 14 of 1984 initiated under Section 7(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the Act'). The said Ceiling Cases were heard and disposed of by common order dated 28th March, 1998 holding that the sons of late Sanatan Singh along with his wife are ceiling surplus land holders. Assailing the said order, Fakir Charan Singh, one of the sons of late Sanatan Singh, filed ULC Appeal No.2 of 1998 before Revenue Divisional Commissioner (Central Division), Odisha, Cuttack and the said appeal was dismissed. Being aggrieved, said Fakir filed OJC No.7386 of 1999. In the meantime, Urban Land (Ceiling and Surplus) Repeal Act, 1999 came in to force with effect from 22nd March, 1999 repealing the Act, which was adopted by the State Government on 5th April, 2002. Legal heirs of Fakir Charan Singh also filed W.P.(C) No.13313 of 2005 assailing the order of the Competent Authority as well as appellate Authority. Both the writ petitions were disposed of by a common order dated 18th October, 2012 (Annexure-1) setting aside the order of the Competent Authority as well as Appellate Authority. Assailing the same, the State Government filed Civil Appeal Nos.4588 and 4589 of 2018, which were also dismissed vide common order dated 3rd December, 2021 (Annexure-2). There was an amicable partition among the family members in respect of the joint family property and the case land fell to the share of Azad Singh. ROR was also prepared in his name. After his death, legal heirs of said Azad Singh, namely, Opposite Party Nos.5 and 6 executed an agreement of sale of the case

land in favour of the Petitioner under Annexure-3 on 8th January, 2022. Although ID No.392200243 was allotted to the document, but the District Sub-Registrar is not taking any action to register the same.

4. Taking into consideration the contentions of learned counsel for the Petitioner, this Court, vide order dated 20th June, 2022, directed learned State Counsel to take instruction in the matter.

5. Mr. Mishra, learned ASC filed the counter affidavit of Opposite Party No.4 in Court today, which is taken on record. Copy of the same is also served on Dr. Lenka, learned counsel for the Petitioner. Mr. Mishra, learned ASC referring to the counter affidavit, submits that in reply to the clarification sought for by the District Sub-Registrar, Cuttack under Annexure-4, Land Acquisition Officer (Civil), Cuttack in his letter No.678 dated 6th May, 2022 (Annexure-F/4 to the counter) has intimated that the steps are being taken to file Review petition before the Hon'ble Supreme Court against order of dismissal of Civil Appeal Nos.4588-4589 of 2018. He, however, submits that no review petition was filed till filing of the counter affidavit.

6. Relying upon the ratio in the case of ***IN RE: Cognizance for Extension of Limitation***, reported in ***(2022) 3 SCC 117*** laid down by the Hon'ble Supreme Court, Mr. Mishra, learned ASC submits that the limitation to file the review petition, if any will commence only from 1st March, 2022. He, therefore, submits that this Court may consider the same and pass necessary orders accordingly.

7. Taking note of the submissions of made by learned counsel for the parties, this Court finds that the orders passed in Urban Ceiling Case Nos.5 of 1983, 11 of 1984, 12 of 1984, 13 of 1984 and 14 of 1984 have already been set aside by this Court in a common order passed under Annexure-1. The said order was unsuccessfully challenged by the State Government before the Hon'ble Supreme Court in Civil Appeal Nos.4588-4589 of 2018, which has been dismissed vide order under Annexure-2. It reveals from the record that till the date of filing of counter affidavit by Opposite Party No.4, i.e., 8th July, 2022, no review petition as mentioned under Annexure-F/2 was filed by the State Government.

8. In view of the above, this Court is of the considered opinion that at present there is no legal impediment to consider the agreement for sale presented by Opposite Party Nos. 5 and 6 for registration.

9. Accordingly, this Court disposes of the writ petition with a direction to the District Sub-Registrar, Cuttack-Opposite Party No.4 to take a decision with regard to registration of the document bearing ID No.392200243 (Annexure-3) as expeditiously as possible, preferably by end of this month giving opportunity of hearing to the parties concerned and communicate the same to the Petitioner forthwith.

9.1 Learned counsel for the Petitioner undertakes to produce certified copy of this order before the District Sub-Registrar, Cuttack by 18th July, 2022.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge