

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 17953 OF 2022

Prasana Kumar Mohapatra ***Petitioner***

Mr. Chinmay Choudhury, Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***

Mr. A.R. Dash,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

29.07.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to pass similar orders as that of the order passed in W.P.(C) No. 19171 of 2017 and direct the District Sub-Registrar, Baliana-Opposite Party No.4 to execute the registered sale deed in respect of the property purchased by the Petitioner.
3. It is submitted by Mr. Choudhury, learned counsel for the Petitioner that involving similar question of fact and law, this Court in W.P.(C) Nos.19171 and 16414 of 2017 has issued the following direction vide order dated 8th March, 2017:

“5. In that view of the matter, this Court is of the considered opinion that the investigating agency cannot instruct the statutory authority like District Sub-Registrar or Tahasildar not to allow or register any kind of sale or purchase, instead, he should proceed either under the provisions of Criminal Law Amendment Ordinance, 1944 or under the provisions of the O.P.I.D. Act, to protect the interest of the investors. In this case, the investors themselves have come forward and prayed that the letter dated 12.01.2017 issued by the Inspector-in-Charge be modified in a project specific manner to exclude the Sai Enclave Project, so that their properties can be conveyed to them which they have purchased by

investing their hard money and since most of them are Government employees and have retired from their services, so also most of them have taken loan from the banks for booking the dwelling units in Sai Enclave Project, they having no dwelling units, are facing lots of hardship.

6. Therefore, both the aforesaid writ petitions are allowed. The letter dated 12.01.2017 of the Inspector-in-charge, Saheed Nagar Police Station, Bhubaneswar is modified to the extent that the Tahasildar, Baliana shall entertain the deed of conveyance and sale to be executed by the Company in favour of the petitioners individually and the cost of registration and the stamp duty shall be borne by the petitioners."

4. Mr. Choudhury, learned counsel for the Petitioner further submits that the case of the Petitioner is squarely covered by the ratio decided therein. Following ratio decided in the aforesaid writ petition, several other writ petitions have also been disposed of by this Court (copies of certain orders have also been annexed to the writ petition as Annexure-3 series). He, therefore, prays for disposal of the writ petition in the light of the ratio decided in the aforesaid case.

5. Mr. Dash, learned Additional Government Advocate submits that he has no instruction in the matter. However, if the case of the Petitioner is squarely covered by the ratio decided in W.P.(C) No.19171 of 2017, the same may be examined by the Opposite Party No.4 before taking any step for registration of the sale deed in favour of the Petitioner.

6. Taking into consideration the submissions made by learned counsel for the parties, this Court disposes of this writ petition with a direction to the District Sub-Registrar, Baliana-Opposite Party No.4 and the Tahasildar, Baliana-Opposite Party

No.5 to consider the request of the Petitioner taking into consideration the direction issued vide order dated 8th March, 2019 in W.P.(C) Nos. 19171 and 16414 of 2017.

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

(K.R. Mohapatra)
Judge

bks

