

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 17977 OF 2022

Rudra Narayan Pradhan ***Petitioner***
Mr. Sidhartha Mishra, Advocate

-versus-

State of Odisha and others ***Opp. Parties***
Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
11.08.2022

Order No.

02. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to the Sub-Registrar, Badachana to return the registered sale deed to the Petitioner in respect of Plot No.3/167 under Khata No. 70/62 of mouza Kanjia in the district of Jajpur.
3. Mr. Mishra, learned counsel for the Petitioner submits that sale deed executed by the Opposite Party No.4, namely, Laxmidhar Bastia, in favour of the Petitioner was produced before the Sub-Registrar, Badachana. But, the Sub-Registrar, Badachana impounded the sale deed dated 24th May, 2022 and issued Letter No. 395 dated 25th May, 2022 to the Superintending Engineer, Rural Works Division-II, Jajpur at Jaraka for valuation of building in respect of the land in question. Upon receipt of the valuation report, the Sub-Registrar, Badachana intimated the Petitioner vide Letter No. dated 21st June, 2022 to make good the deficit stamp duty, which has been complied with by the Petitioner. It is his

submission that after receipt of deficit stamp duty, the document has already been registered, but the Sub-Registrar, Badachana is withholding the document without releasing it in favour of the Petitioner.

4. Mr. Mishra, learned Additional Standing Counsel by filing counter affidavit submits that as the document is undervalued keeping in view the valuation of the house standing over the land in question, the document although registered has been withheld. A civil suit in respect of the land in question is also pending in the court of learned Civil Judge (Senior Division), Chandikhole in C.S. No. 89 of 2022 and an interim order has been passed on 2nd July, 2022 in I.A. No. 73 of 2022. Hence, the document although registered was not returned to the Petitioner. It is further submitted that a complaint was made by the present Petitioner and one Anjan Pal before the District Registrar, Jajpur, which has been registered as Misc. Case No.1 of 2022. The said misc. case is still pending for consideration.

5. Law is well settled in ***M/s. Harshpriya Construction (P) Ltd. –v- T.M.S. Suguna, the Inspector General of Registration, Orissa, Cuttack***, reported in (2010) 109 CLT 772, wherein this Court at paragraph-9 has held as under:

“9. On the aforesaid analysis, we hold that neither the Registering Officer nor the Stamp Collector in exercising jurisdiction under Section 47-A of the Act is legally entitled to retain possession of the instrument (sale deed) of the petitioner. They are legally obliged to return the same. It is apparent that interim order was passed in this writ petition on 29.6.2009 directing the opposite parties to return the registered sale deed in question to the petitioner

subject to further orders to be passed in the writ petition. We, therefore, direct that the instrument (sale deed) in question which has not yet been returned to the petitioner in pursuance to the interim order dated 29.06.2009 be returned within ten days from the date of communication of this order or production of a certified copy thereof, whichever is earlier.”

6. Since the document has been registered, the authority cannot withhold the same with him. The Registering Officer is duty bound to return the document to the person authorized to receive the same forthwith in view of the provisions under Section 47-A of the Registration Act. In the instant case, it is admitted by the Sub-Registrar, Badachana in his counter affidavit that the document has already been registered. Thus, it has to be returned to the person so authorized to receive it.

7. Taking into consideration the submissions made by learned counsel for the parties and the case law cited above, this writ petition is disposed of with a direction to the Sub-Registrar, Badachana-Opposite Party No.2 to return the registered document to the Petitioner authorized to receive it as expeditiously as possible preferably within a period of three days from the date of production of certified copy of this order.

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

(K.R. Mohapatra)
Judge

bks