

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26285 of 2020

Anil Kumar Behera.

....

Petitioner

-versus-

State of Odisha & others.

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

30.03.2022

Order No.

03.

1. This matter is taken up through Hybrid mode.
2. Heard the learned counsel for the petitioner
3. The petitioner in this writ petition challenges the order dated 18.02.2016 passed by the Addl. Sub-Collector, Kandhamal, Phulbani under Annexure-1 and letter No.401 dated 03.07.2020 issued by the District Sub-Registrar, Phulbani, Kandhamal under Annexure-4 refusing to register the sale deed in his favour.
4. Learned counsel for the petitioner submits that no doubt the impugned order is appellable one, but since no reason has been assigned therein, this Court notwithstanding the fact that an appeal lies against the said order, can entertain this writ petition.

5. In view of the aforesaid submission of the learned counsel for the petitioner, provision of Section 71 of the Registration Act, 1908 requires to be looked into which reads as thus:-

“71. Reasons for refusal to register to be recorded.-

(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.”

6. From the materials on record, it appears that only the endorsement of refusal is there. But, there is no material to show that the petitioner had applied for the reasons of refusal which is maintained in Book No.2. Section 71 of the Registration Act mandates the Registering Authority to supply the same on application.

7. In such premises, this Court is of the view that contention advanced by the learned counsel for the petitioner that since registration was refused without assigning any reason this writ petition should be entertained, is without any

substance. But, liberty is given to the petitioner to make an application to the Sub-Registrar concerned to supply the reasons of refusal along with a certified copy of this order within three weeks hence and on receipt of the same, reasons of refusal be supplied to the petitioner. Then the petitioner is at liberty to approach the appellate authority under Section 72 of the Registration Act against such refusal.

8. It is made clear that if such an appeal is filed, considering the fact that the petitioner was bonafidely prosecuting this writ petition here, the appellate authority shall condone the delay in filing the same and also in view of the order passed by the Apex Court in *Suo Motu Writ Petition (Civil) No.3 of 2020*, the delay in filing the appeal shall be condoned.

9. With the aforesaid order, this writ petition stands disposed of.

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

(S. Pujahari)
Judge

MRS