

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23175 of 2022

Mina Panda

..... Petitioner

Mr. Kousik Ananda Guru, Advocate

-versus-

State of Odisha and others

.... Opp. Party

Mr. Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party Nos.1 and 2)

**CORAM:
JUSTICE K.R. MOHAPATRA**

Order No.

**ORDER
29.09.2022**

1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition prays for a direction to District Sub-Registrar, Bhadrak-Opposite Party No.2 to register the sale deed presented before it.
3. Mr. Guru, learned counsel for the Petitioner submits that the Petitioner had earlier executed the sale deed in favour of Opposite Party No.3-Smt. Sanjulata Bhanja. Subsequently, the Petitioner filed CS No.117 of 2019 before learned Civil Judge (Senior Division), Bhadrak to declare such sale deed to be null and void. The suit was decreed on compromise vide order dated 9th March, 2019, holding the registered sale deed executed by the Petitioner in favour of Opposite Party No.3 to be null and void. Subsequently, the Petitioner in order to meet her legal necessity intended to execute another sale deed in respect of the self-same land, but the Opposite Party No.2 is not entertaining the same holding that the encumbrance certificate disclosed that

the land in question has already been alienated in favour of Opposite Party No.3. It is his submission that after the sale deed in question executed in favour of Opposite Party No.3 is cancelled, an endorsement to that effect ought to have been recorded by the DSR-Opposite Party No.2 following procedure under Rule 95 of the Odisha Registration Rules, 1988 (for short, 'the Rules'). Due to inaction of the DSR, Bhadrak, the Petitioner is not in a position to alienate her property.

4. Mr. Mishra, learned ASC submits that in order to record the endorsement as provided under Rule 95 of the Rules, the decree so passed has to be communicated by the concerned Court to the Registering Authority concerned in view of Section 31(2) of the Specific Relief Act, 1963, which provides that if an instrument is registered/cancelled or declared null and void under the Indian Registration Act, 1908 (16 of 1908), the Court shall send a copy of its decree to the Officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation. Apparently, the compromise decree between the Petitioner and Opposite Party No.3 has not been communicated to the DSR, Bhadrak. Thus, the Petitioner, if so advised, may make an application under Section 31(2) of the Act to enable the Court to send a copy of the decree for necessary action by the Sub-Registrar concerned.

5. Considering the submissions made by learned counsel for the parties, this Court feels that interest of justice will be best served if the Petitioner makes an application before the learned Civil Judge (Senior Division), Bhadrak to send the copy

of the decree to the office of the District Sub-Registrar, Bhadrak to take follow up action in the matter.

6. In view of the above, this Court, without expressing any opinion on the merit of the case of the Petitioner, disposes of the writ petition with a direction that in the event Petitioner makes an application before learned Civil Judge (Senior Division), Bhadrak to send a copy of the decree passed in CS No.117 of 2019 by the said Court to District Sub-Registrar, Bhadrak-Opposite Party No.2 along with certified copy of this order, it shall be considered and disposed of in accordance with law. Upon receipt of the copy of the decree from the Court, if any, District Sub-Registrar, Bhadrak-Opposite Party No.2 shall do the needful following due procedure of law.

7. As requested, a copy of this order shall be made available to Mr. Mishra, learned ASC for communication and compliance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge