

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 24570 OF 2022

Pradosh Kumar Nayak ***Petitioner***

Mr. Jayadeba Behera, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. Suvashish Pattanaik,
Additional Government Advocate

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

ORDER
28.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The grievance of the Petitioner in this writ petition is with regard to inaction of Sub-Registrar, Chandbali-Opposite Party No.4 in registering the sale deed presented by the Petitioner in respect of his share in the joint property.
3. It is submitted by learned counsel for the Petitioner that in order to meet his medical expenses, the Petitioner is in dire need of money. Hence, he intended to transfer his share in the joint property in favour of one Pramod Kumar Nayak. But the Sub-Registrar, Chandbali is not accepting the sale deed for registration. It is further submitted that in view of the ratio decided in ***Sitarani Rath –v- the Inspector General of Registration, Odisha and others***, reported in 120 (2015) CLT 1069, the Petitioner is entitled to alienate his share in the joint property. As such, there is no legal impediment for registration of the sale deed.

4. Mr. Pattanaik, learned Additional Government Advocate, on the other hand, submits that in view of the observation of this Court at paragraph-7 in *Sitarani Rath* (supra), the ratio decided therein is not applicable to the homestead property. Further, the vendee, namely, Pramod Kumar Nayak, is not a co-tenant in respect of the land in question. Thus, the Sub-Registrar, Chandbali has committed no error in not accepting the sale deed for registration.

5. In view of the submissions made by learned counsel for the parties, this Court is of the considered opinion that in the event the Sub-Registrar, Chandbali-Opposite Party No.4 refuses to register the sale deed, he has to record its reason and make an endorsement of refusal on the sale deed in terms of Section 71 of the Registration Act, 1908.

6. Section-71 (1) of the Registration Act, 1908 (for short 'the Act') provides that every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situated 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.

7. In view of the clear provision, the Petitioner is required to file an application under Section 71 of the Act in order to take further action in the matter. Accordingly, it is directed that in the event the Petitioner files an application under Section 71 of the Act along with the document intended to be registered within a

period of two weeks hence along with certified copy of this order, the Sub-Registrar, Chandbali-Opposite Party No.4 shall do well to consider the same and pass a reasoned order thereon keeping the ratio decided in the case of ***Dhabal Prasad Pradhan –v- State of Odisha and others***, reported in 2014 (II) OLR 902, in mind. If the Sub-Registrar, Chandbali is of the opinion that the deed/document in question cannot be registered, he shall supply the reasons of refusal of registration of such document within a period of three weeks therefrom.

8. With the aforesaid observation and direction, this writ petition stands disposed of.

9. Learned counsel for the Petitioner undertakes to serve a copy of the writ petition along with copy of this order on learned State Counsel for reference and communication.

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

bks

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(K.R. Mohapatra)
Judge

ORISSA