

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 26421 OF 2022

Suresh Chandra Behera and others ***Petitioners***
Mr. Prafulla Kumar Lenka, Advocate
-versus-
State of Odisha and others ***Opp. Parties***

Mr. A.R. Dash,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
19.10.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek to assail the action of Sub-Registrar, Jagatpur-Opposite Party No.3 in registering the Sale Deed No.10432204029 dated 27th September, 2022.
3. Mr. Lenka, learned counsel for the Petitioners submits that on earlier occasion, the Opposite Party Nos.5 to 16 presented the sale deed dated 22nd October, 2019 (Annexure-11) for registration. Upon objection filed by the present Petitioners, who are rightful owners, registration of such sale deed was refused vide order dated 5th November, 2019. Assailing the same, said Opposite Party Nos.5 to 16 preferred Stamp Appeal No.1 of 2020 before the Additional District Magistrate, Cuttack, who vide his order dated 16th June, 2020 confirmed the order passed by the Sub-Registrar, Jagatpur. Being aggrieved by the said order, one Murali Das (Opposite Party No.5) preferred W.P.(C) No.15788 of 2020. This Court vide order dated 12th July, 2022 disposed of the said writ

petition setting aside the order refusing to register the sale deed and directing as under:

“6. In view of the discussion made above as well as the case law cited, this Court finds that this writ petition is maintainable. Accordingly, the impugned order under Annexure-4 is set aside and the matter is remitted back to the Sub-Registrar, Jagatpur-Opposite Party No.3 to take a decision afresh in accordance with law keeping in mind the observation made as well as case law cited hereinabove, giving opportunity of hearing to the parties concerned.”

4. Pursuant to the aforesaid order, the Opposite Party Nos.5 to 16 presented a fresh sale deed on 27th September, 2022. The Sub-Registrar, Jagatpur without issuing any notice to the present Petitioners, registered the document on the very same day. When the Petitioners came to know about the same, they have filed this writ petition for the aforesaid relief.

5. Mr. Dash, learned Additional Government Advocate submits that since the document has already been registered, the only remedy available to the Petitioner is by filing a suit to get it set aside. Hence, this writ petition is not maintainable.

6. Considering the rival contentions of learned counsel for the parties, this Court finds that while disposing of W.P.(C) No. 15788 of 2020, this Court has specifically directed the Sub-Registrar, Jagatpur to take a decision afresh in accordance with law keeping in mind the observation made in the said order giving opportunity of hearing to the parties concerned. However, it is submitted by learned counsel for the Petitioners that no opportunity of hearing has been provided to the Petitioners, who are true

owners of the land in question and at their instance, registration of sale deed on the earlier occasion was refused.

7. In view of the above, this Court feels that the Petitioners should be given opportunity of hearing. Accordingly, the writ petition is disposed of with a direction that in the event the Petitioners file an application to take a decision with regard to registration of sale deed dated 27th September, 2022 within a period of two weeks hence along with certified copy of this order, the Sub-Registrar, Jagatpur-Opposite Party No.2 shall do well to issue notice to the Petitioners and Opposite Party Nos.5 to 16 and take a fresh decision with regard to registration of sale deed in accordance with law.

8. Till a fresh decision is taken on the application, if filed by the Petitioners within the time stipulated above, Registered Sale Deed No.1043224029 dated 27th September, 2022 shall be kept in abeyance and shall be reflected so in the website of Sub-Registrar, Jagatpur.

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

(K.R. Mohapatra)
Judge

bks