

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.26555 OF 2022

Sudam Charan Jena and others* *Petitioners

Mr. Gopal Prasad Jena, Advocate

-versus-

***The Principal Secretary to
Government, R & DM Department,
Odisha and others* *Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel

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

**ORDER
01.12.2022**

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioners in this writ petition pray for a direction to the Sub-Registrar, Khaira-Opposite Party No.4 to register the sale deed intended to be presented by them in respect of Plot No.154 to an extent of Ac.0.30 decimals under Khata No.33 situated in mouza Belagadia under Khaira Tahasil in the district of Balasore (for short 'the case land').
 3. Mr. Jena, learned counsel for the Petitioner submits that the case land stood recorded in the name of their father, Baidhar Jena, who had executed a registered sale deed in favour of one Krushna Sethy. Before delivery of possession, the sale deed was cancelled in the year, 1971 by executing a registered deed of cancellation. As such, the case land still stands recorded in the name said Baidhar Jena. After his death, when the

Petitioners went to the office of Sub-Registrar, Khaira for registration of a sale deed in favour of Nigam Nikunja Sethy and Kailash Sethy, the same was not accepted by the Sub-Registrar, Khaira. Hence, this writ petition has been filed.

4. Mr. Mishra, learned Additional Standing Counsel relies upon the counter affidavit filed by the Opposite Party Nos.2 to 4, wherein it has been categorically stated that the Petitioners had never visited the office of Sub-Registrar, Khaira nor presented any document/petition, as alleged. In support of their contention, they also relied upon the search report as at Annexure-D/4 series. He, therefore, submits that the writ petition suffers from want of cause of action and is liable to be dismissed.

5. Mr. Jena, learned counsel for the Petitioners, however, refutes the same strongly.

6. In view of the above, this Court without delving into the controversy as to whether any document with regard to the case land was presented for registration or not disposes of this writ petition with a direction that in the event the Petitioners present the original of document sought to be registered in respect of the case land, the Sub-Registrar, Khaira-Opposite Party No.4 shall do well to consider the same in accordance with law. If, for any reason, he is of the opinion that the document cannot be registered, he shall adhere to the procedure provided under Section 71 of the Registration Act, 1908 and communicate the decision thereof to the Petitioners forthwith.

7. It is made clear that this Court has not expressed any opinion on the merits of the case of either of the parties.

8. Hard copy of the counter affidavit filed by Opposite Party Nos.2 to 4 in Court is taken on record.

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

(K.R. Mohapatra)
Judge

bks

