

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26756 of 2022

Saroj Kumar Patnaik

....

Petitioner

Mr. Gouri Mohan Rath, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,

Additional Standing Counsel

(For Opposite Party Nos.1 to 5)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.12.2022

Order No.

4. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction to the Sub-Registrar, Barbil-Opposite Party No.5 to allow him to register long term lease deed in respect of his land bearing Plot No.633 corresponding to Plot No.503/633 under Khata No.145/575 measuring an area Ac.0.300 decimal and Plot No.634 corresponding to Plot No.507/634 under Khata No.103 measuring an area Ac.0.350 decimal, kisam 'Gharabari' in mouza Sundara, Unit-13, Barbil in the district of Keonjhar (for short, 'the case land') and remove the said property from the list of encumbrances as reflected in the encumbrance certificate under Annexure-3 showing the mining lease in favour of Steel Authority of India Limited (SAIL).
3. Considering the rival contentions of the parties, this Court vide order dated 30th November, 2022 issued notice in the matter and directed learned State Counsel to file an affidavit within a period of three weeks.

3.1 Pursuant to said direction, Sub-Registrar, Barbil- Opposite Party No.5 filed counter affidavit stating that clarifications have been sought from the Government with regard to registration of the document in respect of the land in question.

3.2 Mr. Mishra, Learned Additional Standing Counsel filed two documents along with a Memo, which is taken on record. The said documents reveal that in reply, to the clarification sought for, as above, Joint Secretary to Government in Revenue and Disaster Management Department vide letter No.25th November, 2022, clarified as under:-

“In the similar case, this Department has already issued clarification to Collector, Ganjam regarding registration of private land which has been leased out in favour of Indian Rare Earths Ltd. (IREL) as per opinion of Law Department vide letter No.35884 dtd. 24.09.2018 (Copy enclosed). You are therefore requested to issue necessary clarification to Sub-Registrar, Badbil for allowing registration of documents of transfer/sale/mortgage/lease in consultation with Collector, Keonjhar immediately in this case and similar cases as SAIL in this case has not executed any lease agreement, or paid compensation to the private land owners.”

The clarification to Collector, Ganjam regarding registration of private land, which was leased out in favour of Indian Rare Earths Ltd. (IREL) has been issued vide letter dated 24th September, 2018 of the Additional Secretary to Government in Revenue and Disaster Management Department, relevant portion of which is quoted below.

“The landowners, not being the lesser to the lease, are no way affected by the terms and conditions of the lease documents executed between the State Government and IREL. So the private landowners still remain as the occupiers of the surface of the lease land and by virtue of their title, they can transfer/sell such land to any person. The buyers of the land will take the position of the new

landowners and will continue to get all benefits arising out of such mining operation by IREL. Since the landowners are really in need of money to meet some of their family exigencies, they cannot be debarred from executing deed of transfer in lieu of consideration price to the prospective buyers. Consent of the old landowners for the work of such excavation in favour of IREL would remain applicable to the new landowners on their purchase. If the consent documents prepared in favour of IREL by the private landowners had included the condition for use of lands only for dwelling or agricultural purpose and not for industrial or commercial purpose, then those shall certainly apply to the prospective buyers."

4. In view of above, it appears that there is no difficulty in permitting the Petitioner to alienate his property (the case land). Thus, the Opposite Party No.5-Sub-Registrar, Barbil is directed to consider registration of document to be submitted by the Petitioner in respect of the case land in accordance with law keeping in mind the aforesaid clarification and do the needful.

5. With the aforesaid observation and direction, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge