

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26969 of 2022

***Sri Sri Gouragopal Jew Bije
Nijaggruha, Puri***

..... Petitioner

Mr. Nirod Kumar Sahu, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party Nos.1 to 3)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

17.10.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Grievance of the Petitioner in this writ petition is with regard to inaction of the Sub-Registrar, Puri-Opposite Party No.3 in accepting the sale deed intended to be registered.
3. Mr. Sahu, learned counsel for the Petitioner submits that the property in question belongs to the Petitioner, which is a private deity. In order to meet the legal necessity, a petition under Rule 4-A of the Odisha Hindu Religious Endowment Rules, 1959 (for short, 'Rules, 1959') has been filed for grant of NOC for alienation of the property of a private deity. The said application is registered as OA Case No.26 of 2018. As the application was not disposed of, the Petitioner-deity moved this Court in W.P.(C) No.35692 of 2020, which was disposed of on 21st January, 2021 directing the Commission of Endowments, Bhubaneswar to take steps for early disposal of OA No.26 of 2018 after extending opportunity of hearing to the parties concerned. In spite of the same, learned Commissioner of

Endowments, Bhubaneswar is not disposing the OA for which the Petitioner-deity is seriously prejudiced. It is submitted by Mr. Sahu, learned counsel for the Petitioner that although learned Commissioner has granted NOC in respect of another Plot of the same Khata of the Petitioner-deity, but for the reasons best known to him, OA No.26 of 2018 is kept pending. In view of the 2nd proviso to Section 19-A of the Odisha Hindu Religious Endowments Act, 1951 (for short, 'OHRE Act'), the NOC is deemed to have been granted after lapse of three month, if it is not rejected. He further submits that there is no bar on the part of the Sub-Registrar, Puri to accept the sale deed in intended to be registered and pass necessary orders on the same. As such, a direction may be made to the Sub-Registrar to accept the sale deed under Annexure-1 and to pass necessary order.

4. Mr. Mishra, learned ASC objecting to such submission contends that for alienation of the immovable property of a private deity NOC under Section 19-A of the OHRE Act read with Rule 4-A of the Rules, 1959 is necessary. In absence of such NOC, the Registering Authority has no jurisdiction either to accept or register the said document. Hence, the Sub-Registrar has committed no error in not accepting the document, in absence of the NOC.

5. In view of the rival contentions of the parties and on perusal of record as well as provisions of Law, this Court finds that Sub-Registrar, Puri-Opposite Party No.3 did not accept the sale deed in question for registration as it did not accompany NOC granted by competent authority. It goes without saying that the Registering Authority shall not register a document of

alienation of immovable property of a private deity in absence of NOC granted under Section 19-A of the OHRE Act read with Rule-4-A of the Rules, 1959. Hence, the Sub-Registrar, Puri has committed no error in not accepting the sale deed for registration in absence of any NOC granted by the competent authority.

6. Thus, the writ petition is disposed of with an observation that the Petitioner if so advised, may pursue its remedy before the Commissioner of Endowments, Odisha, Bhubaneswar for grant of NOC.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

