

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 27126 OF 2022

Anant Ram Naik

....

Petitioner

Mr. Jiban Ranjan Dash, Advocate

-versus-

Sub-Registrar, Dharmagarh

....

Opp. Party

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

17.11.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks for a direction to the Sub-Registrar, Dharmagarh to return the registered documents No.10891502091 dated 13th October, 2015.
 3. Mr. Dash, learned counsel submits that the Petitioner has purchased Plot No.714/3144 to an extent of Ac.1.60 decimals, Plot No.725 to an extent of Ac.0.19 decimals, Plot No.726 to an extent of Ac.0.04 decimals under Khata No.144/194 situated under Mouza Golamunda from Rajaram Agrawal. After execution of the sale deed, the same was presented before the Sub-Registrar, Dharmagarh for registration. Although, the document has been registered since 13th October, 2015, but the same has not yet been returned to the Petitioner, who is a purchaser. As such, the Petitioner is facing difficulty in mutating the land in his name.

4. Mr. Dash, learned counsel for the Petitioner relying upon the case of *M/s. Kukumina Construction (P) Ltd. –v- Sub-Registrar-cum-Stamp Collector, Khurda and others*, reported in 2010 (II) OLR-19 submitted that in view of Sections 52 and 61 of the Registration Act, once a document is registered, it cannot be retained with the Sub-Registrar. It should be handed over to the authorized person immediately. Hence, he prays for a direction to the Sub-Registrar, Dharmagarh-Opposite Party to handover the registered documents to the Petitioner forthwith.

5. Mr. Mishra, learned Additional Standing Counsel by filing counter affidavit submits that on verification of the record, it was found that from out of Ac.1.60 decimals of the same Khata, the vendor had already executed two sale deeds in favour of Lochan Bandichood and Dayaram Bandichhod to an extent of Ac.0.43 decimals and Ac.0.42 decimals vide document Nos.2182 of 2009 and 2183 of 2009 respectively. Thus, no sufficient land was available with the vendor to execute the sale deed to execute the sale deed to an extent of Ac.1.60 decimals from the said Khata in favour of the Petitioner. As a proper inquiry at the time of registration cannot be made, the document executed in favour of the Petitioner was rejected. He, however, submits that the Registering Authority cannot retain the documents with him after its registration in view of the ratio decided in the case of *M/s. Kukumina Construction (P) Ltd* (supra) and *M/s. Harshpriya Constrcution (P) Ltd. –v- The Inspector general of*

Registration, Orissa, Cuttack and others, reported in 2010 (I) OLR 760.

6. In view of the above, the writ petition is disposed of with a direction to the Sub-Registrar, Dharmagarh-Opposite Party to hand over the registered documents No.10891502091 dated 13th October, 2015 to the Petitioner on proper identification. The Sub-Registrar, Dharmagarh shall also communicate the Civil Court having jurisdiction over the land in question as well as the Tahasildar, Dharmagarh immediately with regard to registration and irregularities.

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

(K.R. Mohapatra)
Judge

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