

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 38251 OF 2021

Subash Panigrahi

....

Petitioner

Ms. Laxmi Sharma, Advocate

-versus-

State of Odisha and another

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

21.10.2022

Order No.

7. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to set aside the order dated 23rd November, 2021 (Annexure-2) passed by the Sub-Registrar, Bhatli-Opposite Party No.2 refusing to register the sale deed in respect of Plot No. 4157/5107 under Khata No. 386/483 situated in mouza Bhatli in the district of Bargarh.
3. Ms. Sharma, learned counsel for the Petitioner submits that the land in question was settled in favour of father of the Petitioner, namely, Kulamani Panigrahi, as a landless person. After death of his father, the land has been recorded in the name of Petitioner and other co-sharers. In the R.O.R. issued in the name of Petitioner and other co-sharers as at Annexure-1, there was a stipulation that the land cannot be alienated within ten years from the date of settlement. Ten years from the date of settlement has already elapsed since long. Due to legal necessity, the Petitioner along with other co-sharers executed a sale deed in favour of one Nutana Bibhar. The Sub-Registrar, Bhatli is not taking any step to register the same on the plea that no

permission for alienation of the land is enclosed for the same. Hence, this writ petition has been filed.

4. Mr. Mishra, learned Additional Standing Counsel submits that Section 6-A of the O.L.R. Act (for short 'the Act') prohibits alienation of the land within ten years from the date of settlement. However, in the meantime, ten years have already elapsed from the date of settlement. He further submits that the land was settled in the name of father of the Petitioner, namely, Kulamani Panigrahi, as a landless person. It has now become a practice that the landless persons in whose favour land is settled, after alienating their property are applying for settlement of the land as landless person again. In that view of the matter, the Sub-Registrar, Bhatli has insisted upon taking permission from the competent authority from alienation of the land and accordingly, he rejected the registration of sale deed vide his order dated 23rd November, 2021. Since the Petitioner has a remedy under Section 72 of the Act to assail the impugned order, this writ petition is not maintainable and is liable to be dismissed.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that the Sub-Registrar, Bhatli is required to take a decision on the issue of registration of document within a reasonable time and he cannot keep it pending. Section 6-A of the Act is not a bar for registration of the instant sale deed. However, from the impugned order under Annexure-2, it is not clear under which provision of law the Sub-Registrar, Bhatli has refused to register the sale deed. On perusal of Annexure-2, it appears that the only ground for refusal of registration of sale deed is that lease was granted in favour of father of the Petitioner for Socio Economic Development of the Citizen. This

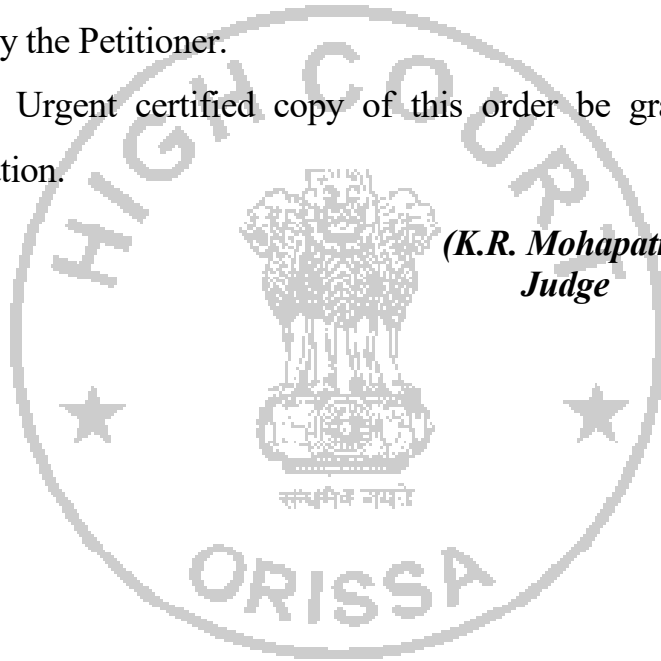
may not probably be a ground on which the registration of sale deed can be refused, unless there is restriction under law.

6. In view of the above, this Court set asides the impugned order under Anenxure-2 and remits the matter back to the Sub-Registrar, Bhatli to enquire into the matter afresh and pass a reasoned order with regard to registration of the sale deed giving opportunity of hearing to the parties concerned.

7. The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order by the Petitioner.

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

bks



(K.R. Mohapatra)
Judge