

(2022) 09 OHC CK 0240

In the Orissa High Court

Case No : Writ Petition (C) No. 25562 Of 2022

Prasanta Kumar Bhoi And Another

APPELLANT

Vs

Inspector General of Registration, Odisha And Another

RESPONDENT

Date of Decision : 30-09-2022

Acts Referred:

Transfer of Property Act, 1882 — Section 44
Registration Act, 1908 — Section 71, 71(1)

Citation : (2022) 09 OHC CK 0240

Hon'ble Judges : K.R. Mohapatra, J

Bench : Single Bench

Advocate : Mihir Sekhar Sahoo, Swayambhu Mishra

Final Decision : Disposed Of

Judgement

K.R. Mohapatra, J

- 1.This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek for a direction to the Sub-Registrar, Dharmasala-Opposite Party No.2 to register the sale deed of the property to the extent of the Petitioner's share in the ROR.
3. Mr. Sahoo, learned counsel for the Petitioners submits that although he has produced documents for registration before the Sub-Registrar, Dharmasala, he has refused to register the same.
4. Section-71 (1) of the Registration Act, 1908 (for short 'the Act') provides that every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situated within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2, and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

5. In view of the clear provision, Petitioners are required to file an application under Section 71 of the Act in order to take further action in the matter. Accordingly, it is directed that in the event the Petitioners file an application under Section 71 of the Act along with the document intended to be registered within a period of two weeks hence along with certified copy of this order, the Sub-Registrar, Dharmasala-Opposite Party No.2 shall do well to consider the same and pass a reasoned order thereon keeping in mind the order passed in W.P.(C) No.19196 of 2022, where it is observed that although the Petitioners have the right to alienate their share in the joint family property, but they have no right to alienate any specific parcel of the land as provided under Section 44 of the TP Act. If the Sub-Registrar, Dharmasala is of the opinion that the deed/ document in question cannot be registered, he shall supply the reasons of refusal of registration of such document within a period of two weeks therefrom.

6. With the aforesaid observation and direction, this writ petition stands disposed of.

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

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