



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11886 OF 2026

[Application under Articles 226 & 227 of the Constitution of India]

AFR

Utkal Khadi Mandal

....

Petitioner

-Versus-

State of Odisha & Others

....

Opp. Parties

Advocate(s) appeared in this case:

For Petitioner : Ms. Deepali Mahapatra, Advocate

For Opp.Parties : Mr. Gyanalok Mohanty,
Standing Counsel for the State

CORAM:

JUSTICE SASHIKANTA MISHRA

JUDGMENT

25th August, 2026

SASHIKANTA MISHRA, J.

Refusal of the Registering Authority to register a document presented by the petitioner for registration is questioned in the present writ application.

FACTS

2. The petitioner is a society registered under the Societies Registration Act, 1860 on 06.12.1947, established



for the purpose of encouraging Khadi industries in the villages in Odisha so as to provide self-employment. As per the bye-laws of the society, the Secretary performs all administrative functions and sues or is sued on behalf of the society.

(ii) The society purchased a land bearing Hal Plot No.29/1059 under Khata No.290/112 measuring Ac.0.28 dec. in Mouza- Dhanakauda in Sambalpur District vide RSD dated 19.02.1972 through its Secretary. The Secretary applied for mutation, which was allowed, whereupon rent was paid to the Government. The Secretary also filed an application under Section 8A of the OLR Act for conversion, which was allowed by order dated 15.10.2015 passed by the Revenue Officer. The present Secretary was appointed as such by resolution dated 11.12.2022 of the governing body with grant of authority to him to alienate the properties of the society. Said resolution was followed by a similar resolution passed on 21.06.2025.

(iii) Accordingly, the petitioner executed a sale deed on 07.01.2024 in favour of opposite party No.6 in respect of the



case land, which was presented for registration before the Sub-Registrar, Sambalpur on 02.04.2026. The stamp duty was assessed and deposited by the petitioner.

(iv) However, by order dated 07.04.2026, the Sub-Registrar refused to register the document on the ground of five deficiencies listed therein. Said order is impugned in the present writ application.

3. According to the petitioner, the deficiencies pointed out in the order are not valid and that the Sub-Registrar, having accepted the document for registration along with the stamp duty could not have refused its registration. Moreover, the Sub-Registrar has no authority to refuse registration on the grounds cited in the impugned order.

RELIEF CLAIMED

4. On the above facts, the petitioner has approached this Court in the present writ application seeking the following relief:

“It is therefore, prayed that this Hon'ble Court may graciously be pleased to issue rule NISI to the opposite parties and if the opposite parties fail to show cause or shown insufficient cause make the said rule absolute by directing the opposite party no.5 to register the document presented on 02.04.2026 immediately and



further be pleased to quash the letter dated 7.4.2026 issued by the opposite party no.5 under Annexure-10;

And may pass any other appropriate order or orders or direction or directions for the ends of justice;

And for this act of kindness, the humble petitioner as in duty bound shall ever pray."

STAND OF THE STATE OPPOSITE PARTY

5. It is stated that the writ application is not maintainable as alternative remedy of appeal is provided in Section 72 of the Registration Act, 1908. On merits, it is stated that the fact that the petitioner-society was registered in 1947 does not establish that it is validly functioning in all respects. No document was produced to show that the bye-law remains unchanged. Though there is no dispute regarding title of the property, the Secretary's authority to alienate the property has not been proved. The resolutions said to have been passed by the governing body cannot be accepted unless accompanied by a list of the validly enrolled members and that the meeting was held with the requisite quorum. The deficiencies noted in the impugned order were noticed while processing the application and have been lawfully recorded. It is also stated that the payment of



stamp duty by itself cannot result in registration of the document.

The petitioner filed a rejoinder refuting the averments made in the counter affidavit by referring to different provisions of the Indian Registration Act, 1908 (in short 'the Act') and the Odisha Registration Rules, 1988 (in short 'the Rules'). It is stated that once all statutory requirements have been complied with and the requisite fees have been paid, there is no option left with the registering authority than to register the document.

APPEARANCE

6. Heard Ms. Deepali Mahapatra, learned counsel for the petitioner and Mr. Gyanalok Mohanty, learned Standing Counsel for the State. Be it noted that notice to the private opposite party No.6 was dispensed with at the risk of the petitioner society as it does not seek any relief against him, he being the vendee of the sale transaction in question.

SUBMISSIONS

7. Ms. Mahapatra would argue that the writ application as laid is maintainable despite existence of



alternative remedy, as it involves a pure question of law. On merits, Ms. Mahapatra would submit that once the process of registration as contemplated in the Act and Rules were initiated and duly complied with, it was not open to the registering authority to refuse registration of the documents. She further submits that the grounds on which the document was refused to be registered are not available to be raised by the Sub-Registrar as he has no jurisdiction to go into such aspects. Ms. Mahapatra has referred to several statutory provisions which this Court shall refer to at the appropriate place.

8. Per contra, Mr. Mohanty would argue that only because a document presented for registration is processed and stamp duty is assessed and paid, does not mean that the document has to be mandatorily registered. Since the Registering Authority found several deficiencies in the documents and particularly relating to the authority of the Secretary to alienate the property, he rightly refused its registration.



FINDINGS ON MAINTAINABILITY

9. It is stated that the statute having provided an alternative efficacious remedy against the order of refusal in the form of appeal under Section 72 of the Act, the writ application should not be entertained. In counter to such contention, it is stated that the writ application involves a question of law requiring interpretation by this Court without entering into any disputed question of fact. Law is well settled that existence of alternative remedy is not an absolute bar for entertaining a writ application, particularly when the same involves a pure question of law. Reference in this regard may be had to the judgment of the Supreme Court in the case of **Godrej Sara Lee Ltd. Vs. E & TOCCA¹**, followed in several cases by this Court. From a reading of the counter affidavit as well as the impugned order it is clear that the title of the petitioner society over the property in question is not disputed though the authority of the Secretary to register the sale deed has been questioned. Be that as it may, the question involved in the present writ

¹ (2023) 109 GSTR 402



application is, whether the statute permits the registering officer to do so. This is therefore, a pure question of law which can be answered with reference to statutory provisions without entering into any detailed examination of facts. The writ application is therefore, held to be maintainable.

ANALYSIS OF RELEVANT STATUTORY PROVISIONS

10. Part -VI of the Registration Act containing Sections 32 to 35 relate to presenting documents for registration.

Sections 34 and 35 being relevant are reproduced below:

“34. Enquiry before registration by registering officer.—(1) *Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorised as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:*

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;



(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a SubRegistrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

35. Procedure on admission and denial of execution respectively.—

(1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the person they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61 inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII:

Provided further that the State Government may, by notification in the Official Gazette, declare that any Sub-Registrar named in the notification shall, in respect of



documents the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.”

Section 22-A of the Odisha Amendment confers power on the registering officer to refuse registration of certain documents as enumerated therein. Said provision is also reproduced.

“22.A. Refusal to register certain documents- (1)

The registering officer shall refuse to register-

(a) any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease-

(i) belonging to the State Government, or the Local Authority;

(ii) belonging to any religious institution to which the Odisha Hindu Religious Endowment Act, 1951 is applicable.

(iii) belonging to or recorded in the name of Lord Jagannath, Puri;

(iv) donated. for Bhoodan Yagna and vested. in the Odisha Bhoodan Yagna Samiti established under section 3 of the Odisha Bhoodan and Gramdan Act, 1970;

(v) belonging to Wakfs which are under the supervision of the Odisha Wakf Board established under the Wakf Act, 1995;

unless a sanction in this regard, issued by the competent authority as provided under the relevant Act or in absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

Explanation.- For the purpose of this section Local Authority means any Municipal Corporation, Municipality, Notified Area Council, Zilla Parisad, Grama Panchayat, Urban Development Authority Planning Authority or any Local Self Government constituted under any law for the time being in force.



(b) the instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed: and

(c) any instrument relating to transfer of immovable property, alienation or transfer of which is prohibited under any State or the Central Act.

(2) Notwithstanding anything contained in this Act, the registering officer shall not register any document presented to him for registration unless the transferor produce the record of rights for the satisfaction of the registering officer that such transferor has right, title and interest over the property so transferred.

Explanation-For the purpose of this sub-section record-of rights' means the record of rights as defined under the Odisha Survey and Settlement Act, 1958."

Thus, the statute provides for necessary enquiry by the Registering Officer in respect of the matters mentioned therein which includes enquiry as to whether or not the document in question was executed by the person by whom it purports to have been executed.

11. Perusal of the copy of the sale deed in question enclosed to the writ application reveals that the petitioner society represented through its Secretary, Ray Satyakama Devayjyoti is the executant. It is not the case of the State that anyone other than the Society represented by its Secretary had executed the document. It is provided that if after such enquiry, the person executing the document



appears personally before the Registering Officer, he shall register the documents as per Section 58 to 67 of the Act. At this stage it would also be proper to refer to the relevant Rules, i.e. Odisha Registration Rules, 1988, particularly, Rules 25 to 29. These rules are reproduced below:

“25. Conditions of admissibility.- Every document, on being tendered for registration shall be examined by the Registering Officer in regard to the following points :
(i)that it has been presented at the Proper Office (Sections 28, 29 and 30);(ii)that it bears the proper stamp or is exempted from or is not liable to stamp duty;(iii)that it is in a language deemed to be commonly used in the district, or is accompanied by a true translation into such a language and a true copy (Section 19);(iv)that in case of any interlineation, blank erasure or alteration, Section 20 and Rule 22 have been complied with;(v)that if the document is non-testamentary and relates to immovable property, the description thereof is sufficient (Section 21);(vi)that if the document is non-testamentary and contains a map or plan, it is accompanied by the prescribed number of true copies of the map or plan [Section 21(4)];(vii)that if the document is non-testamentary and relates to lands or houses, the description of which is governed by rule made under Section 22, Sub-section (1), the lands or houses are described according to that rule (Section 22);(viii)that if the document is not a will, it has been presented within the proper time (Sections 23 to 26);(ix)that, the document has been presented by the person authorised in that behalf (Section 32 or Section 40);(x)[that the presentant has affixed his passport size photograph and fingerprints to the document (Section 32-A); [Inserted vide Orissa Gazette Extraordinary No. 735 dated 31.5.2002. (Notification No. SRO 494/2002 dated 30.5.2002).](xi)that the pass-port size photograph and finger prints of each buyer and seller, in case of sale of immovable property has been affixed to the document.



26. Documents sent by post or messenger -A document, other than those referred to under Section 88 shall not be accepted for registration if transmitted by post. A document referred to under Sub-section (2) of Section 88 may be presented through a messenger with a covering letter signed by the Government Officer or other person referred to under Sub-section (1).

27. Endorsement of Certificate of admissibility - If the requirement of the law have been complied with in respect of all these particulars indicated in Rule 25 and there are no impediments to the acceptance of a document for registration, a certificate of admissibility in Form No. I Appendix II, shall be endorsed on the face of the document [or such endorsements may also be made through the Computer] [Inserted vide Orissa Gazette Extraordinary No. 735 dated 31.5.2002. (Notification No. SRO 494/2002 dated 30.5.2002).] and shall be signed and dated by the Registering Officer.

28. Receipt of fees and fines.- After endorsing on a document the certificate of admissibility referred to in Rule 27, the Registering Officer shall receive the registration fees and fines, if any, payable under Subsection (1) of Section 25 and shall enter the respective amount thereof on the document closed to the said certificate.

29. Endorsement of presentation. - The Registering Officer shall endorse on the document, the date, the hour and the place of presentation and take the signature of the presenting party to such document. And at the same time a requisite entry shall be made in the Fee-Book after completion of necessary enquiry envisaged under Section 34.”

A conjoint reading of these Rules shows the steps required to be taken sequentially upon presentation of a document. If the requirement of Rule-25 is satisfied and there is no impediment to the acceptance of the document for registration, the step contemplated under Rule 27 is to be



taken. Thereafter, the fees shall be paid and received, whereupon necessary endorsement of presentation shall be made on the document.

12. Coming to the facts of the present case, it is argued that since the fees were assessed and paid, it implies that the conditions of admissibility contemplated under Rule-25 being satisfied, the document was held to be admissible. This Court finds some force in the above contention, inasmuch as it is only upon satisfaction of the conditions of the admissibility that the fees would be required to be paid. Looking at it from the other way round, if the fees are paid, it would imply that the prior conditions contemplated under Rule-25 have been satisfied. The matter can be considered from yet another angle also. Supposing in a case the document is held to be inadmissible being contrary to the conditions enumerated under Rule-25, obviously the process would stop at that stage and the Registering Officer would refuse to register the document by passing an order under Section 71 of the Act. In the case at hand, one of the grounds for refusal to register is that the presenter of the



document could not establish his identity, appointment or authority issued by the President of the society. This Court fails to understand, if the above requirement was not satisfied, how could the matter be processed further by requiring the presenter to pay the stamp duty. Nothing prevented the Registering Officer to call upon the presenter to satisfy the condition of proving his authority. This Court therefore, holds that the procedure contemplated in the Act and Rules was not followed.

13. Turning to the impugned order, it is seen that the document was refused to be registered after noting the following deficiencies.

“1. The document is executed by the Secretary on the basis of an authorization purportedly issued by the President of the society. However, no documentary evidence has been produced to establish the identity, appointment or authority of the said President.

2. The society has failed to produce its by-laws, rules or any Governing document to establish the constitution of the managing body and the powers vested in its office bearers.

3. No resolution of the Governing body authorizing execution of the document has been produced.

4. The society uses the word "Khadi" in its name; however, no document has been produced to show recognition, registration or authorization from the Khadi and Village Industries Commission (KVIC) for such usage.

5. Whereas, the society UTKAL KHADI MANDAL, stated to have been established on 6th December, 1947. has not produced any document regarding its latest



renewal; therefore, it has not been established that the registration of the society is valid and subsisting as on date and its continuity and functioning remain doubtful.”

Without entering into the merits of the deficiencies so noted, this Court would simply observe that the statute does not confer any such power on the Registering Officer to raise such questions. It has been laid down by different judicial pronouncements that the Registering Officer has no power of adjudication. Being a creature of the statute, he cannot traverse beyond the boundaries set therein. This is also the settled position of law.

14. In the case of **K. Gopi v. Sub-Registrar**² the Supreme Court went to the extent of observing as follows:

“18. The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot refuse to register the document if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. We may note here that under the scheme of the 1908 Act, it is not the function of the Sub-Registrar or registering authority to ascertain whether the vendor has title to the property which he is seeking to transfer.

19. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to

² (2026) 2 SCC 696



making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.”

Following the ratio of **K. Gopi** (supra), this Court in the case of **Bauri Behera vs. State of Odisha**³ also took the same view.

15. It is not understood as to exercising which power the Registering Officer cited the deficiencies enumerated in the impugned order. If there was any doubt as regards the identity or authority of the presenter, he could have been called upon to produce satisfactory proof of the same, which would have satisfied the requirement of Sections 34 and 35 of the Act, read with Rule 25(ix) of the Rules. Instead, the petitioner was called upon to deposit the stamp duty and then the document was refused to be registered. This is akin to putting the cart before the horse. The stand of the State as reflected in the counter affidavit is even more surprising and in complete disregard of the settled position of law. If its contentions are to be accepted, then every society seeking to

³ W.P.(C) No.13487 of 2026, decided on 07.07.2026



alienate its property through an instrument and desiring to have the same to be registered would find itself in a quandary. Not only would it have to prove the authority of the presenter, but also prove its functioning and validity of its members including quorum of the meeting held to authorize the presenter. This is a preposterous proposition lacking any legal sanction. It is also stated that only because the word 'Khadi' is included in the Society's name, it requires recognition from the Khadi and Village Industries Commission. It is stated to be a 'a relevant and reasonable requirement'. Which law requires such recognition has conveniently not been spelt out. In the considered view of this Court, the stand of the State is untenable

CONCLUSION

16. From a conspectus of the analysis made in the preceding paragraphs, this Court is left with no doubt that the impugned order cannot be countenanced in law under any circumstances and therefore, warrants interference.



RESULT

17. The writ application is allowed. The impugned order of refusal is hereby set aside. The Registering Officer is directed to register the sale deed already presented by the petitioner within a week from the date of production of certified copy of this order by the petitioner acting through its Secretary subject to compliance of other statutory requirements.

**Sashikanta Mishra,
Judge**

***Orissa High Court, Cuttack
The 25th August, 2026/ A.K. Rana, P.A.***