



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.13487 of 2026**

(An application under Articles 226 and 227 of Constitution of India)

**Bauri Behera** ..... **Petitioner**

**-Versus-**

**State of Odisha & Others** ..... **Opp. Parties**

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**For Petitioner** : Mr. S.M. Dwibedy, Advocate

**For Opp. Parties** : Mr. A.R. Dash,  
[Addl. Government Advocate]

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**CORAM:**

**JUSTICE SASHIKANTA MISHRA**

**JUDGMENT**  
**7<sup>th</sup> July, 2026**

**SASHIKANTA MISHRA, J.**

Aggrieved by the order passed by the District Sub-Registrar, Khurda, refusing to register the sale deed presented by her, the petitioner has filed this Writ Petition with the following prayer:-

*“The petitioner therefore, prays that this Hon’ble Court may be graciously pleased to admit the writ petition*



*issue a Rule Nisi calling upon the Opposite Party Nos.2 and 3 to show cause as to why the order dated 16.02.2026 under Annexure-3 passed by O.P. No.3 shall not be quashed and why a direction shall not be given to the O.P. No.3 to register the sale deed presented by the petitioner on dated 13.02.2026 vide Application ID No.1082602237 under Annexure-2 within a time stipulated by this Hon'ble Court and if the Opposite Party Nos.2 and 3 failed to show cause or show insufficient cause then the said rule be made absolute by quashing Annexure-3 with a further direction to the O.P. No.3 to register the sale deed presented by the petitioner on dated 13.02.2026 vide Application ID No.1082602237 under Annexure-2 within a time stipulated by this Hon'ble Court.*

*And for this act of kindness, the petitioner shall ever pray."*

2. The facts of the case, briefly stated, are that the petitioner being the owner of the case land executed an agreement for sale of the same with Opposite Party No.4 on 13.07.2007. It was an unregistered agreement. Out of the total consideration amount of Rs.53,00,000/- Opposite Party No.4 paid an advance amount of Rs.17,10,000/- on 13.07.2007. The petitioner however, did not execute the sale deed for which, Opposite Party No.4 filed a civil suit being C.S. No.350 of 2009 in the Court of learned 2<sup>nd</sup> Additional Senior Civil Judge, Bhubaneswar. During pendency of the suit, the petitioner executed a sale deed in respect of the very same land in favour of M/s. Odisha Infra Venture Pvt. Ltd. on 30.01.2012.



Subsequently, the suit was disposed of vide judgment dated 19.12.2025 by holding that the sale deed executed on 30.01.2012 by the petitioner being a *lis pendens* transaction is not binding on Opposite Party No.4. As such, the petitioner was directed to execute the sale deed in favour of Opposite Party No.4 in terms of the agreement for sale dated 13.07.2007. The petitioner executed the sale deed on 13.02.2026 in favour of Opposite Party No.4 and presented the same for registration before the District Sub-Registrar, Khurda on the same date. By order dated 16.02.2026, the District Sub-Registrar, observing that the property stood recorded in the name of M/s. Odisha Infra Venture Pvt. Ltd. refused to register the sale deed on the ground that the petitioner did not possess any right, title or interest over the same. Said order, as already stated is impugned in the present Writ Petition.

3. No counter affidavit is filed by the State-Opposite Parties. By order dated 01.07.2026, notice on Opposite Party No.4 was dispensed with at the risk of the petitioner on the submission that she does not claim any relief against him in the present Writ Petition.



4. Heard Mr. Sitanshu Mohan Dwibedi, learned counsel for the Petitioner and Mr. Ayodhya Ranjan Dash, learned Additional Government Advocate for the State-Opposite Parties.

5. Mr. Dwibedi would argue that once the civil Court has decreed the suit by granting the relief of specific performance of contract and by directing the petitioner to execute the sale deed in favour Opposite Party No. 4, it is not open to the registering authority to refuse registration by going into the question of title. He further submits that the provisions of the Indian Registration Act do not confer any power on the registering authority to do so. He has no option but to respect the decree of the civil Court. In support of his contention, Mr. Dwivedi has cited a judgment of this Court in the case of ***Dhabal Prasad Pradhan Vrs. State of Odisha & Others***.<sup>1</sup>.

6. Per contra, Mr. A.R. Dash, learned Additional Government Advocate questions the maintainability of the Writ Petition by submitting that the order passed by the registering authority under Section 71 of the Registration Act can be

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<sup>1</sup> 2015 (119) CLT 487



challenged in appeal under Section 72 of the said Act. Since alternative remedy is available, the Writ Petition should not be entertained. On merits, Mr. Dash would fairly submit that though the registering authority cannot go beyond the decree of the civil Court yet, in order to prevent any anomalous situation from arising, the petitioner should first get the property mutated in her name and then apply for registration.

7. Since the question of maintainability of the Writ Petition has been raised, it would be proper to deal with it at the outset.

The facts of the case are not disputed in any manner. From a copy of the judgment of the civil Court enclosed to the writ application, it can be seen that there was an agreement for sale between the Petitioner and Opposite Party No.4 on 13.07.2007, which was held to be a valid agreement. The civil Court also took note of the *lis pendens* transaction and held that the sale deed executed thereby is not binding on the present Opposite Party No.4 and accordingly decreed the suit by directing the petitioner to execute the sale deed in favour of the Opposite Party No.4. On such admitted



facts, the sole question that arises for consideration in the Writ Petition is the legality of the impugned order refusing to register the sale deed only on the ground of the land being recorded in somebody else's name. This is purely a question of law, wherein no disputed questions of fact are involved. Law is well settled that though ordinarily alternative remedy should be pursued yet, writ jurisdiction can be invoked in cases involving only questions of law. The judgment of the Supreme Court in the case of **Godrej Sara Lee Ltd. V. E&TOCAA**,<sup>2</sup> can be profitably referred to in this regard, wherein the following was observed:-

*"7. Not too long ago, this court in its decision reported in [2021] SCC Online SC 884 (Assistant Commissioner of State Tax v. Commercial Steel Limited)\* has reiterated the same principles in paragraph 11.*

*8. That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of U. P. v. Indian Hume Pipe Co. Ltd.)\*\* and (2000) 10 SCC 482 (Union of India v. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the High Court could entertain a writ petition in its discretion even though the alternative remedy was not availed of ; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this court found the issue raised by the appellant to be pristinely legal requiring determination by the High Court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is*

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<sup>2</sup> (2023) 109 GSTR 402



*that where the controversy is a purely legal one and it does not involve disputed questions of fact but only questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the ground of an alternative remedy being available.”*

In view of the above proposition of law laid down by the Supreme Court, this Court holds the Writ Petition maintainable despite existence of the statutory remedy of appeal.

8. As already stated, the short question that falls for consideration in this case is the legality of the impugned order. In other words, the civil Court having decreed the suit filed by the present Opposite Party No.4 with direction to the petitioner to execute the sale deed, is it open to the registering authority to go into the question of title. The answer can only be in the negative. Firstly, Record of Rights is not a document of title. Secondly, as held by the Court in the case of ***Dhabal Prasad Pradhan (Supra)***, the provision under Section 22-A (2) of the Registration Act does not require production of Record of Rights in respect of the land transferred in the name of vendor or transferee. Analysing the statutory provisions as well as Article 300-A of the Constitution of India, this Court held as follows:-



*“On a plain reading of Sub-section (2) of Section 22-A of the Act, it is found that nowhere the provision requires production of Record-of-Rights in respect of the land transferred in the name of vendor or transferor. It simply requires production of the Record-of-Rights for satisfaction of the registering officer that such transferor has right, title and interest over the property so transferred. It is well settled that Record-of-Rights neither creates nor extinguishes title. The contention advanced by the learned counsel for the petitioner that interpretation of the provision under Sub-section (2) of Section 22-A of the Act assigned on behalf of the opposite parties is contrary to such settled principle of law is not unfounded. Moreover, it is rightly contended that such a narrow interpretation to the provision would be contrary to the provision under Section 8 of the Transfer of Property Act with regard to transfer of all the interest which the transferor is then capable of passing in the property and in the legal incidents thereof forthwith. Title of the land passes upon valid execution of sale deed. Constitutional right conferred under Article 300-A of the Constitution of India has also to be given a meaningful interpretation to include right to deal with one's own property. In such circumstances, narrow interpretation of the provisions under Sub-Section (2) of Section 22-A of the Act by the opposite parties is unwarranted and not acceptable.”*

9. In a relatively recent case i.e., **K. Gopi v. Sub-Registrar**<sup>3</sup>, the Supreme Court has taken the view that the registering officer is not concerned with the title held by the executant and that he has no adjudicatory power to decide whether the executant has any title. The Supreme Court went to the extent of holding that even if an executant executes a sale

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<sup>3</sup> (2026) 2 SCC 696



deed or lease in respect of land over 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 the registration charges/ fees are paid. The following observations of the Supreme Court may be profitably referred to.

*“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 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.”*

10. In the instant case, even though the ROR in question stood recorded in the name of another person, the registering officer could not have ignored the decree passed by the civil Court in respect of the very same land. Needless to



mention, the ROR cannot override the decree of the civil Court, which remains binding on all concerned. So, only because the land continued to be recorded in the name of M/s. Odisha Infra Venture Pvt. Ltd., the registering authority could not have refused registration of the sale deed presented by the petitioner. The reasoning adopted by the registering authority is therefore, untenable for which, the impugned judgment calls for interference.

11. For the foregoing reasons therefore, the Writ Petition succeeds and is therefore, allowed. The impugned order passed by the registering authority is hereby set aside. He is directed to register the sale deed dated 13.02.2026 executed by the petitioner in favour of Opposite Party No.4 within three days from its presentation.

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**(Sashikanta Mishra),**  
**Judge**

*The High Court of Orissa, Cuttack*  
*07<sup>th</sup> July, 2026 Puspanjali Ghadai, Jr. Stenographer*