

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.5702 of 2009

Prafulla Chandra Dash

....

Petitioner(s)

Mr. D.P. Mohanty,
Advocate

-versus-

Ramani Rath

....

Opposite Party(s)

None

CORAM:
JUSTICE BISWANATH RATH

ORDER

03.11.2022

Order No.

Misc. Case No.14508 of 2013

07. 1. This Misc. Case has been filed for substitution as against the deceased Petitioner.
2. Considering the averments made in this Misc. Case and keeping in view the submission of the learned counsel for the L.Rs of the deceased Petitioner, the application for substitution as against the deceased Petitioner is allowed.
3. Learned counsel for the substituted Petitioner is directed to file a consolidated cause title in course of the day.
4. The Misc. Case stands disposed of.

(Biswanath Rath)
Judge

W.P.(C) No.5702 of 2009

08. 1. Heard the submission of learned counsel for Petitioner. Even though there is appearance on behalf of the contesting Opposite

Party, none appears on behalf of the contesting Opposite Party at the time of hearing.

2. Dispute involved herein is; there is involvement of two proceedings. One vide R.F.A. No.43 of 2007 involving partition of the property, which property again involved in a probate proceeding. Undisputedly the suit being disposed of in the meantime, an appeal is pending before the learned District Judge whereas the probate proceeding is undertaken by the learned District Judge. Appeal is pending in form of R.F.A. No.43 of 2007 whereas the probate proceeding is pending vide TEST Case No.3 of 2008. Both the matters are pending before the learned District Judge, Keonjhar.

3. For the involvement of refusal of stay of R.F.A. No.43 of 2007 at least till disposal of the TEST Case No.3 of 2008 involved herein, the Petitioner brought this Writ Petition.

4. Taking this Court to the pleadings taken in the Writ Petition, learned counsel for the Petitioner raised reasonable ground for stay of the proceeding vide R.F.A. No.43 of 2007 at least till disposal of the TEST Case No.3 of 2008 on the premises that outcome in the TEST Case No.3 of 2008 shall govern the decision in R.F.A. No.43 of 2007.

5. Considering the submission of learned Counsel for Petitioner, this Court finds, in fact the outcome in TEST Case No.3 of 2008 is likely to weigh in the decision in R.F.A. No.43 of 2007. In the process, this Court while finding a case in favour of the Petitioner, directs for maintenance of the interim order dated 1.05.2009 passed in Misc. Case No.4476 of 2009 at least for a period of three months hence and the present District Judge, Keonjhar is also directed to first conclude the hearing of the proceeding vide TEST Case No.3 of 2008 and further proceeding in R.F.A. No.43 of

2007 shall commence immediately after production of a copy of the judgment in TEST Case No.3 of 2008.

6. The Writ Petition stands disposed of with the above order.

(Biswanath Rath)
Judge

Ayaskanta Jena

