

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.9 of 2022

Niraj Mohanty

....

Petitioner

Mr.Bibekananda Bhuyan,
Advocate

-versus-

Netrananda Kar & Ors.

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
12.01.2022**

Order No.

1.

1. This matter is taken up through Video Conferencing Mode.

2. Heard Mr.Bhuyan, learned counsel appearing for the petitioner.

3. Looking to the nature of pleading, this Court finds the plaint involves the following prayer:

“20. The plaintiff therefore prays that:-

(a) His title to the land described in schedule ‘A’ below be declared, his possession thereof be confirmed, and if he is found to have been dispossessed from any part thereof he be put in possession thereof through court.

(b) Hal Settlement Plot Nos.515, 569, 517, 516, 631 and 518 of Cuttack Town Unit No.6, Deulasahi North be properly demarcated by a Civil Court Commissioner and the hal settlement map be corrected accordingly;

(c) Defendant No.1 be permanently restrained from coming upon the suit land and from interfering with the plaintiff’s possession thereof in any manner in future.

(d) Costs of the suit be decreed in favour of the plaintiff and against the defendants;

(e) The plaintiff be given such other relief or reliefs as he may be found entitled to in the facts and circumstances of the case.”

4. Coming to the application required to be considered by the trial court and from the order impugned herein, this Court finds there is attempt of plaintiff to part away with the suit on certain terms with the

defendant Nos.1 and 18 only. This Court records on scrutiny of document that defendant nos.1 and 18 even after filing written statement opposing the claim of plaintiff keeping interest in compromise the dispute with plaintiff. For the opinion of this Court in the survival of written statement in opposition to the claim of plaintiff, no compromise of this nature is possible. Plaintiff and Defendant Nos.1 and 18 may find out option, if any, available to them. For the nature of dispute involved, this Court finds there has been right appreciation of the issue involved herein by the trial court in rejecting such application.

5. This Court however observes the reasoning and findings in the rejection involving impugned order may not in apply affects the ultimate trial of the suit.

6. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout copy of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 & 515 dated 7th January, 2022.

(Biswanath Rath)
Judge