

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) NO.1461 OF 2010

Benga Sahoo

....

Petitioner

Mr.P.K.Rath, Adv.

-versus-

State of Orissa & ors.

....

Opposite Party(s)

Mr.S.P.Panda, AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
12.12.2022

Order No.

03.

1. Heard learned counsel for the Parties.

2. The Writ Petition involves the following prayer :-

“The Petitioner, therefore, prays that your lordships would be graciously pleased to admit this writ petition, call for the records and after hearing the parties allow the same, issue writ/writs in the nature of certiorari/mandamus and/or any other further writ/direction and set aside the impugned order under Annexure-1 and pass a consequential order to the learned court below to register the suit and I.A. and consider the same in accordance with law in view of the urgency involved in the matter.....”

3. The Writ Petition appears to have been filed on the rejection of the leave sought for by the Plaintiff-Petitioner for admission of the suit involved herein in exempting the prior notice to the State-Defendant.

4. Keeping in view the rival contentions of the Parties and on perusal of the impugned order, this Court finds, it is not a case that

the Plaintiff has brought an Application without disclosure of urgency. Looking to the nature of case, the trial court should have taken a serious view on the urgency involving initiation of proceeding prior to exercise of advance notice to State. Looking to the observations, it appears, there is casual disposal of such Application. In the process, this Court interfering with the impugned order dated 5.1.2010, vide Annexure-1 sets aside the same. As no purpose will be solved in remitting hearing of such Application and further as this Court finds, State has already appeared in the Writ Petition pursuant to the notice and has come to know about filing of suit, this Court allows the Application seeking exemption of notice. This Court records the submission of the leaned State Counsel appearing in the suit to have their contest by appearing therein.

5. Allowing the application involved on setting aside of the impugned order, the Writ Petition stands disposed of directing both the Parties to appear before the trial court on 4th January, 2023. The Defendants may bring written statement within fifteen days of their appearance and since the Civil Suit is of the year 2010, attempt may be made to priorities hearing of the Suit.

(Biswanath Rath)
Judge