

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 61 of 2005

Mayadhar Parhi and Others

....

Appellants

Mr. Niranjana Panda, Advocate

-versus-

Biswanath Gochhayat and Others

....

Respondents

Mr. B.K. Sahu, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE M. S. RAMAN

ORDER

23.11.2022

Order No.

09. 1. The present appeal is directed against the impugned judgment dated 30th June, 2005 of the learned Single Judge allowing W.P.(C) No.6843 of 2005 filed by Respondent No.1 herein against the judgment dated 30th May, 2005 passed by the Additional District Judge (ADJ), Bhadrak in C.R.P. No.25/03.
2. The said C.R.P. 25/03 had been filed by the present Appellants challenging an order dated 12th November, 2003 passed by the trial Court upholding that Title Suit No.15 of 1990 filed by the Respondent was not hit by the principles of *res judicata*.
3. Interestingly, in the impugned order, the learned Single Judge came to the categorical conclusion as under:
- “I find that the trial Court was right in holding that Title Suit No.15 of 1990 was not hit by the principles of *res judicata*.”
4. However, having come to the above conclusion, the learned Single Judge while setting aside the judgment of the learned ADJ in

C.R.P. No.25/03 strangely again issued a direction that “the question of *res judicata* will be decided by the trial Court once again along with all other issues without being influenced by any of the orders passed.”

5. The above direction was not necessary. Once the learned Single Judge had come to the categorical conclusion that Title Suit No.15 of 1990 was not hit by the principles of *res judicata*, there was no occasion to direct the trial Court to again examine that issue with all other issues.

6. Consequently, while setting aside that portion of the impugned order which requires the trial Court to “once again” decide the issue of *res judicata*, this Court directs that the trial Court will now proceed with all other issues in accordance with law.

7. The writ appeal is disposed of in the above terms. The interim order passed earlier stands vacated. It is open to the parties to request the trial Court to expedite the disposal of the suit.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

AK Pradhan