

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

**CMP No. 29 of 2020**

***Ranjan Kumar Panigrahi*** ..... ***Petitioner***  
Miss Deepali Mahapatra, Advocate  
-versus-

***P.Babita Patra and others*** ..... ***Opp. Parties***  
Mr Prabhas Chandra Panda, Advocate  
(For Opposite party No.1)

**CORAM:**  
**JUSTICE K.R. MOHAPATRA**

**ORDER**  
**07.12.2022**

**Order No.**

5.        1.        This matter is taken up through Hybrid mode.
2.        Petitioner in this CMP seeks to assail the order dated 23<sup>rd</sup> November, 2019 (Annexure-8) passed by learned Senior Civil Judge, Chatrapur in CS No.76 of 2013, whereby an application filed by Opposite Party No.1 under Order 1 Rule 10 CPC has been allowed.
3.        Miss Mahapatra, learned counsel submits that the Petitioner is Defendant No.4 in the suit. Opposite Party Nos. 2 to 5 as Plaintiffs filed CS No.76 of 2013 seeking relief to declare the sale deed executed by Defendant Nos.1 to 3 in his (Petitioner's) favour as null and void, declaration of their joint right, title and interest over the suit property and for permanent injunction. After the pleadings of the parties are complete, Opposite Party No.1 claiming that she had purchased the suit property from Plaintiffs/Opposite Party Nos.2 to 5, filed an application under Order 1 Rule 10 CPC to be impleaded as a party. It was contended inter alia that Opposite Party No.1-Intervenor had direct interest over the suit property. Thus,

decree, if any, passed in the suit, may adversely affect her right over the suit property. Learned trial Court holding that the 3<sup>rd</sup> party Intervener had interest over the suit schedule property as she is the last purchaser, allowed the said application. Hence, this CMP has been filed.

3.1 It is contended by Miss Mahapatra, learned counsel for the Petitioner that by allowing the application of Opposite Party No.1 to be impleaded as a party to the suit, learned trial Court has impliedly expanded the scope of adjudication, which is not permissible in law. Relief sought for in the suit can be effectively and completely adjudicated in her absence. Only because she has allegedly purchased the suit property after the sale deed executed by Defendant Nos. 1 to 3 in favour of the Petitioner, she should not be impleaded as a party to the suit.

3.2 In support of her contention, Miss Mahapatra, learned counsel placed reliance upon the case law in the case of ***Panjum Bibi and others Vs. Najama Alim and others***, reported in 2008 (2) OLR 747 in which it is held that only because there is likelihood of multiplicity of litigation, a party should not be impleaded when no relief is claimed against it. It is her submission that by allowing such application, it not only changed the nature and character of the suit but also expanded its scope, which is not permissible in law. In view of the above, she prays for setting aside of the impugned order.

4. Mr. Panda, learned counsel for the 3<sup>rd</sup> party Intervener (Opposite Party No.1 herein) submits that admittedly Opposite Party No.1 has purchased the suit property, which was sold in favour of the Petitioner/Defendant No.4 by Defendant Nos.1 to 3. It is further not disputed that the 3<sup>rd</sup> party Intervener has purchased the property from the Plaintiffs, which is the subject

matter of dispute in the suit. Thus, the Opposite Party No.1 has a direct interest in the suit property. If the suit is decreed in favour of the Plaintiffs then right of the Opposite Party No.1 is likely to be affected. As such, learned trial Court has committed no error in allowing the application under Order 1 Rule 10 CPC.

4.1 He further submits that in order to avoid multiplicity of litigation and effective and complete adjudication of the suit, if it is felt necessary to implead a party, then it should be allowed.

4.2 In support of his contention, Mr. Panda, learned counsel placed reliance on a decision of this Court in the case of ***Gopal Krushna Badu Mohapatra and others Vs. Girish Chandra Nayak and others***, reported in 1999 (1) OLR 582. Hence, the CMP is not maintainable in the eye of law. Accordingly, he prays for dismissal of the CMP.

5. Rival contentions of the parties clearly disclose that the Plaintiffs/Opposite Party Nos.2 to 5 have filed the suit to declare the sale deed executed in favour of the Petitioner as null and void along with other reliefs. The 3<sup>rd</sup> party Intervener (OP No.1) also claimed to have purchased the suit property from the Plaintiffs/Opposite Party Nos.2 to 5. In the facts and circumstances of the case, if the suit is decreed in favour of the Plaintiffs, interest of 3<sup>rd</sup> party Intervener is not going to be affected, as the sale deed executed by Defendant Nos.1 to 4/Petitioners will be set aside. On the other hand, it will be to the advantage of Opposite Party No.1. It further reveals that although the sale deed in favour of Opposite Party No.1 was executed prior to filing of the suit, Plaintiffs have not disclosed the same in their plaint. The Plaintiffs also do not claim any relief against the Opposite Party No.1. In that view of the matter, contentions of Mr. Panda, learned counsel for Opposite

Party No.1 to the effect that his interest is likely to be affected if the suit is decreed, does not hold good. If the Opposite Party No.1 is impleaded, it will certainly enlarge the scope of adjudication of the suit, which has neither been pleaded nor any relief to that effect is sought for in the plaint. In that view of the matter, the impugned order allowing the application filed by Opposite Party No.1 to be impleaded as a party to the suit is not sustainable.

6. Accordingly, the impugned order under Annexure-8 is set aside. Since the suit is of the year 2013, learned trial Court shall do well to dispose of the same expeditiously giving opportunity of hearing to the parties.

7. With the observation and direction, as aforesaid, the CMP is disposed of.

8. Interim order dated 22<sup>nd</sup> January, 2020 passed in IA No.32 of 2020 stands vacated.

Issue urgent certified copy of the order on proper application.

**(K.R. Mohapatra)**  
**Judge**