

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.13575 OF 2003

Madhu Pradhan & ors.

....

Petitioners

Mr.A.K.Sahoo, Adv.

-versus-

Bachu Mian & ors.

....

Opposite Party(s)

Mr.S.Nayak, Ad.

CORAM:

JUSTICE BISWANATH RATH

ORDER

24.8.2022

Order
No.

M.C.NOS.852/06 & 2746/08

9.

1. Heard learned counsel for the Parties.
2. Considering the submissions made, prayer for substitution stands allowed. Let the Cause Title be corrected accordingly.
3. Misc. Cases stand disposed of.

(Biswanath Rath)
Judge

W.P.(C) NO.13575 OF 2003

10. 1. This is a civil Writ Petition involving rejection of an application of the Plaintiff-Petitioners for re-examination of P.W.2 on the ground of disposing wrongly on account of his oldness, illiterateness and loss of balance of mind thereby involving some confused statement.
2. This matter was entertained in 2004 and there is operation of interim order staying operation of further proceeding in T.S.

No.422/I of 2001/1996. Considering the submission supported through the application rejected in the impugned order, this Court finds, there is already examination of P.W.2. From the claim in the application involved, it appears, the Petitioners' attempt is to rectify some statements already made by P.W.2 in his examination under the premises of same being confused and inconsistent. For the opinion of this Court, there is no possibility of rectification of the statement of P.W.2, who being a witness already examined except there may be permission to P.W.2 for bringing any additional evidence based on new developments. From the nature of the application, it appears, the attempt of the Petitioners is to correct the statement already advanced by P.W.2, which is not permissible in the eye of law in a way taking out the admission.

3. In the circumstance, this Court finds no ground to entertain the Writ Petition, which is rejected with vacation of the interim order dated 26.8.2004 passed in Misc. Case No.13206 of 2003.

4. Since the Title Suit is pending since 1996 originally filed and subsequently re-numbered in 2001, the Court in seisin of the above suit is directed to conclude the hearing of the Suit, if necessary, following day-to-day proceeding and to dispose of the same within a period of three months from the date of communication of this order from the Registry.

5. Since the matter is decided in presence of both the Parties, the Parties are directed to appear before the trial court on 7th September, 2022 and produce a copy of this order.

(Biswanath Rath)
Judge

M.K.Rout

