

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.9369 of 2010

Laxmidhar Swain **Petitioner(s)**
Mr. D.P. Mohanty,
Advocate

-versus-

Indramani Swain **Opposite Party(s)**
None

CORAM:
JUSTICE BISWANATH RATH

ORDER

16.12.2022

Order No.

04.

1. Heard the submission of learned counsel for Petitioner. In spite of appearance of a counsel on behalf of the Opposite Party Nos.2 to 7, nobody appears at the time of call. This matter is, therefore, heard and disposed of only hearing the learned counsel for Petitioner and considering the materials available on record.

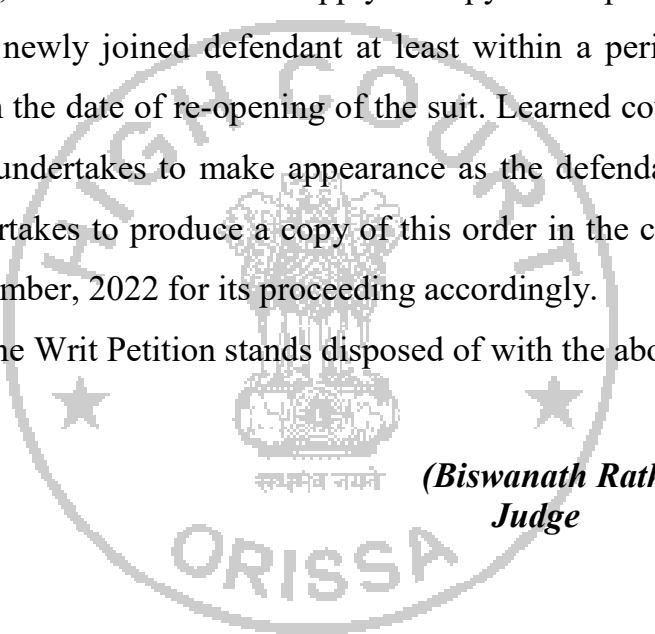
2. This writ petition involves a challenge to the order of rejection of an application U/o.1 Rule 10 of C.P.C. claimed to have been filed by the daughter of Utsava Swain. Further undisputedly the suit involved herein is a partition suit.

3. Learned counsel for Petitioner submits that in the event the party in interest is not added at this stage of the proceeding, there is possibility of multiplicity of litigation and not only that there may also be initiation of litigations in the final decree proceeding. Learned counsel for Petitioner further submits that in the interest of justice all the parties in interest should be added to the proceeding, so that there shall be effective adjudication of the partition suit.

4. Considering the submission made by the learned counsel for Petitioner and finding strength on the claim of the Petitioner in the application U/o.1 Rule 10 of C.P.C., this Court finds, there is mechanical disposal of the application by the trial court.

In the circumstance, this Court interfering in the impugned order dated 22.03.2010, sets aside the same and while allowing the application U/o.1 Rule 10 of C.P.C. this Court directs the plaintiff to bring the present Petitioner as 3rd party more particularly as a defendant. As a consequence of incorporation of the Petitioner as a defendant, there shall also be supply of copy of the plaint on the 3rd party i.e. newly joined defendant at least within a period of seven days from the date of re-opening of the suit. Learned counsel for the 3rd party undertakes to make appearance as the defendant no.7 and also undertakes to produce a copy of this order in the civil court on 22nd December, 2022 for its proceeding accordingly.

5. The Writ Petition stands disposed of with the above order.

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, flanked by two stars. Below the capital is the motto 'सत्यमेव जयते' (Satyameva Jayate). The word 'ORISSA' is written in a semi-circle at the bottom. The words 'HIGH COURT' are written in a semi-circle at the top.
(Biswanath Rath)
Judge

Ayaskanta Jena