

IN THE HIGH COURT OF ORISSA AT CUTTACK

**CMP No.1080 of 2017
(Through video conferencing mode)**

Haripada Karan and another* *Petitioners

Mr. P.C. Acharya, Advocate

-versus-

Harish Karan and others* *Opposite Parties

Mr. S.J. Das, Advocate

CORAM: JUSTICE ARINDAM SINHA

**ORDER
04.02.2022**

Order No.

04. 1. Mr. Acharya, learned advocate appears on behalf of petitioners and submits, order dated 24th August 2017 made by the trial Court is illegal and made with material irregularity. Application for re-examination by plaintiff was allowed to undo deposition made by the witness in cross-examination. Plaintiff, by the re-examination, seeks to improve on his deposition by after thought.
2. Mr. Das, learned advocate appears on behalf of opposite parties- plaintiffs and submits, questionnaire for the re-examination was given to the Court below. His client had not intended to use word 'not'. He would, therefore, explain in re-examination as to what he meant when he answered the questions in cross-examination. On query from Court he confirms that his client signed the deposition in cross-examination after it was drawn up.

3. The questionnaire submitted by opposite parties plaintiffs and relied upon by the trial Court in making impugned order, is reproduced below.

“1. Is it a fact that on dtd. 16.08.2014, the defendants not threatened the plaintiffs to take possession of the suit land ?

2. Is it a fact that, the defendants are not stranger to the suit land ?

3. Is it a fact that, the defendants have right, title, interest over the suit land ?”

It is clear from the questions that they cannot be asked in re-examination. They are questions, answers to which could have been stated in examination-in-chief on affidavit.

4. Impugned order is set aside and quashed. The trial Court will proceed with suit and dispose of it expeditiously without granting unnecessary adjournments.

5. The petition is allowed and disposed of.

(Arindam Sinha)
Judge

SL/Prasant