

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.38 of 2022

Executive Engineer & Ors.

....

Petitioner(s)

Mr.P.K.Tripathy. Adv.

-versus-

Rama Jena

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
10.02.2022**

Order No.

1.

1. Heard the submission of Mr.Tripathy, learned counsel appearing for the petitioners while submitted that there was requirement of an application under order 1 Rule 10 (2) of the Code of Civil Procedure since it involves a party directly responsible for the cause of death. Mr.Tripathy, learned counsel thus submits that there is illegal rejection of such application. There is no dispute that such a move is made by the defendants. For the settled position of law, it is the choice of the plaintiff to prefer his opponent involving the litigation. Looking to the document involved herein and the nature of pleading in bringing such application, this Court finds the defendants have otherwise scope for establishing such pleading and their evidence. For the opinion of this Court, there is no necessity to bring such party to the flora of consideration. It is in this view of the matter, this Court is of the opinion that there is no maintainability of such application which has been rightly rejected. Consequently, the CMP stands dismissed for having no ground.

(Biswanath Rath)
Judge