

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P.No.210 of 2018

Premalata Sahoo & Anr.

....

Petitioner(s)

Mr.B.Satpathy, Advocate

-versus-

Sukadeb Sahoo & Anr.

....

Opp.Party(s)

CORAM:
JUSTICE BISWANATH RATH

ORDER
12.04.2022

Order No.

4

1. Heard learned counsel appearing for the petitioners.
2. This Civil Miscellaneous Petition involves allowing an application under Order 1, rule 10 of the Code of Civil Procedure. For the submission of Mr.Satpathy, learned counsel appearing for the petitioners 3rd party intervenor being the son of plaintiff comes forward to join the suit on the basis of some adoption deed. The application is allowed, giving rise to file the Civil Miscellaneous Petition. In his opposition to the impugned order, Mr.Satpathy, learned counsel appearing for the petitioner opposing the defendants claimed there is no foundation in the claim of adoption and therefore, there was no sustainable claim involving such party to be added as a party to the suit. It is in this context of the matter and on the premises that 3rd party intervenor has no locustandi to come within the contest of the suit, Mr.Satpathy prayed this Court for interfering in the impugned order and setting aside the same.
3. Perused the documents and the plea taken in the application. This Court finds there is clear disclosure that the suit is for partition. Further, perusal of the order passed in Order 1, Rule 10 of the Code of Civil Procedure application, this Court finds the 3rd party intervenor wants to have a contest in the partition suit on the premises of some

adoption deed. Looking to the grounds raised in opposing the impugned order, this Court observes whether the 3rd party petitioner is the adoption child or not is a subject matter, which will be ultimately canvassed in the suit. Considering that the Order 1, Rule 10 of the Code of Civil Procedure application simply involves to find out whether party wants to have stake involving the suit or not and it is only on this prima facie view, a party is required to be added or not? Looking to the observation of the trial court in considering the application under Order 1, rule 10 of the Code of Civil procedure, this Court finds the trial court has come to observe addition of such party will not only avoid multiplicity of litigation but there shall be also avoiding of any future conflicts between the parties and all issues involved can be taken up together in a decision involving one suit. Further, this Court also finds the plaintiff has no objection to such addition. It is in this view of the matter and as this Court finds addition of such party will rather avoid multiplicity of litigation, in the interest of 3rd party, the suit should resolved on contest. The challenge of the petitioner so far the claim pursuant to adoption deed is concerned, is kept open, if agitated to be adjudicated in the process of trial.

4. The Civil Miscellaneous Petition stands disposed of with the observation made hereinabove.

(Biswanath Rath)
Judge