

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.54 of 2022

Sunita Das & Ors.

....

Petitioner(s)
Mr. S.K.Patnaik,
Advocate

-versus-

Murja Das @ Jena & Ors.

....

Opp.Party(s)
Mr.A.P.Bose, Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
08.04.2022

Order No.

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1. Since the brief has been taken away from Mr.P.C.Acharya, previous counsel, there is request by Mr.Acharya, learned counsel to delete his name, which is allowed.
2. Heard learned counsel appearing for the parties.
3. Taking this Court to the impugned order and on the grounds stated herein, Mr.Patnaik, learned counsel for the petitioners placing requirement in the application at Annexure-3 vide Paragraph-5 & 6 submitted their involved three request in one application. Taking to the objection raised involving such application and the reasons in allowing the application vide impugned order Mr.Patnaik, learned counsel contended such an application and the attempts therein does not fit to the stage of the suit as the opposite parties have ample opportunity to throw light on all such aspects even bringing in evidence. It is in this view of the matter, Mr.Patnaik, learned counsel even though submitted that there is no prejudice but however looking to the stage of such asking, stated there should not have been consideration of nature of request in this stage of the suit particularly ahead of the closer of evidence of the parties. There is no dispute that two of the asking have been allowed by the impugned order.

4. Mr.Bose, learned counsel appearing for the opposite parties however on reiteration of the plea taken in the application involved and reason assigned in allowing two of the prayers at least contended if the request of the petitioners at least in the two recourse have been allowed by the impugned order are executed, there will be avoiding of complication in future and further for the dispute involving signature of the party and involvement of party concerned in this stage or at latter stage, there has to be expert opinion on such aspect. Mr.Bose, learned counsel thus contended it is better the aspects involved herein should attended to at the earlier stage.

5. Considering the rival contentions of the parties, looking to the request made in the application involved and the nature of allegation particularly involving the reason, doubt in the involvement of the parties and their signatures, this Court is of the opinion such a contingency may not be avoided even after closer of evidence, as the persons giving deposition are not competent only to establish allegation of participation of particular person and signature as well which will be ultimately dependant on expert opinion. It is in this view of the matter this Court finds attending to the calls of the petitioner being allowed through the impugned order if allowed will avoid unnecessary complication and further petition in future. Further for the petitioners having scope of contradictions in the event the report comes against them. This Court also finds no prejudice to the petitioners in the event of submission of report and or the expert opinion petitioners if so desire, shall have to be permitted to have his score for evidence. In the circumstance this Court finds no force in the submission of learned counsel for the petitioners requiring interference in the impugned order.

6. The Civil Miscellaneous Petition stands disposed of with the observation made herein above.

(Biswanath Rath)
Judge