

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 295 OF 2017

Sabitri Das

.....

Petitioner

Mr. Amiya Kumar Mohanty, Advocate

-versus-

Jasoda Das and others

....

Opp. Parties

Mr. Pattnaik, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.07.2022

Order No.

- 4.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this CMP seeks to assail the order dated 22nd February, 2017 passed by learned Civil Judge (Senior Division), Baripada in C.S. No. 19 of 2006, whereby he rejected an application to exhibit the photocopy of the money receipt issued by Seva Sangha, Baripada.
 3. In course of hearing, Mr. Mohanty, learned counsel for the Petitioner submits that the money receipt being a photocopy of the original, it can only be exhibited following the procedure laid down in Sections 63 and 65 of the Indian Evidence Act, 1872. Hence, he prays for withdrawal of CMP stating that the Petitioner will move appropriate application to mark/exhibit the said document as secondary evidence.
 4. Mr. Pattnaik, learned counsel for the Opposite Parties submits that in fact, without following the procedure laid down in Section 65 of the Act, a secondary evidence cannot be marked as Ext.

5. In view of the submissions made by learned counsel for the parties, the CMP is disposed of as withdrawn with an observation that in the event the Petitioner (Defendant No.3(d) in the suit) files an application to mark the photocopy of the money receipt as Ext., the same shall be considered in accordance with law, giving opportunity of hearing to the parties concerned.

6. The interim order dated 20th March, 2017 passed in Misc. Case No. 331 of 2017 stands vacated.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

