

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.252 of 2022

Padma Charan Mohanty

....

Petitioner(s)

Mr. B.B. Mishra,
Advocate

-versus-

Bandita Das & Ors.

....

Opposite Party(s)

CORAM:

JUSTICE BISWANATH RATH

ORDER

05.04.2022

Order No.

02.

1. This is a 3rd round of application involving Order 26 Rule 9 of C.P.C. For the first one having been rejected the plaintiff moved writ petition vide W.P.(C) No.6954 of 2013. This writ petition appears to have been disposed of by the High Court on 08.04.2013 giving liberty to the Petitioner to file fresh application. It appears, pursuant to the aforesaid direction the Petitioner filed an application U/o.26 rule 9 of C.P.C and since the same came to be rejected by the trial court, the plaintiff filed C.M.P. No.1382 of 2018. This C.M.P. was disposed of on 4.12.2018 observing that if the trial court comes to conclusion that it is not possible on available material on record to get the proper identification on the issue involved, then he or she may appoint a Survey Knowing Commissioner. It appears, undertaking the fresh exercise U/o.26 Rule 9 of C.P.C. the trial court after keeping in view two developments involving the selfsame application has come to observe that there is no necessity and further no purpose will be served for the disclosures already available in appointing a Survey Knowing

Commissioner. This Court is not inclined to interfere in the impugned order. Parties, however, shall be abided by the direction of this Court in the disposed of C.M.P. No.1382 of 2018 and the trial court shall also act in terms of the above direction at appropriate time. Observation in the impugned order and also hereinabove shall not stand on the way at any stage.

2. The C.M.P. stands dismissed.

(Biswanath Rath)
Judge

Ayaskanta Jena

