

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.257 of 2022

Swarnalata Bhola & Ors.

....

Petitioner(s)

Mr. D.P. Mohanty,
Advocate

-versus-

Lelabati Samal & Ors.

....

Opposite Party(s)

CORAM:

JUSTICE BISWANATH RATH

ORDER

05.04.2022

Order No.

01. 1. During course of hearing in comparison of the first suit at Annexure-3 and the subsequent suit at Annexure-1, this Court finds, the Defendant No.4 in the first suit vide C.S. No.479 of 2007 is the plaintiff in the subsequent suit vide C.S. No.966 of 2008. The first suit is pending in a Court at Cuttack whereas the subsequent suit is pending in a Court at Bhubaneswar, but however while comparing the property involved in both the suits, for the Petitioners taking this Court to the description in the schedule 'C' of the first suit, this Court finds, the property at schedule 'C' describes the following:-

“

SCHEDULE

(As pre 1987 R.O.R)

Mouza- Bhubaneswar Town, Unit No.1, Bapuji
Nagar, P.S. New Capital, P.S. No.51
Khata No.45, Plot No.465-Ac.0.069 decls. Kisam-
Gharabari.
Tenant-Kulamani Samal, S/o.Balakrishna Samal.”

2. Here looking to the scheduled property in Annexure-1 i.e. the subsequent suit, this Court finds the schedule therein as follows :-

“ **SCHEDULE OF LAND**

Mouza-Bapuji Nagar, Unit-1, Bhubaneswar, Dist.
Khurda, Khata No. Plot No.165, area Ac.0.069 des.”

3. Looking to the above this Court finds, there is clear difference with regard to the involvement of property in both the suits. In the given situation, this Court finds, for there is no involvement of common property in both the suits and accordingly this Court observes, there is no infirmity in rejecting the claim of the Petitioner U/s.10 of the C.P.C.

4. The C.M.P. stands dismissed.

(Biswanath Rath)
Judge

