

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.1645 of 2012

Nabakishore Panda

.....

Petitioner(s)

Mr.D.Mohanty, Advocate

- Versus-

Bishnupriya Panda & Ors.

.....

Opposite parties

Mr.A.K.Mishra, Advocate

(For O.P.No.1)

Mr.T.R.Mohanty, Advocate

(For O.P.Nos.8 to 13)

CORAM:

JUSTICE BISWANATH RATH

ORDER

10.01.2022

Order No.

06

1. This matter is taken up through Video Conferencing mode.
2. Heard learned counsel appearing for the parties.
3. Main challenge made in the writ petition appears to be a challenge to the order of the trial court in allowing an application under Order 1 rule 10 of the Code of Civil Procedure undisputedly by a third party-intervenor.
4. Main thrust of allegation advanced by Mr.R.K. Mohanty, learned senior counsel for the petitioner is that for the intervenor-third party having already instituted a suit involving the selfsame disputed property, grievances, if any, of the intervenor-third party can very well be adjudicated in the senior suit at its instance. It is keeping this in mind, Mr.Mohanty, learned counsel objects the impugned order.
5. Mr.Mishra, learned counsel appearing for the contesting opposite party, however, submits that it may be justified in claiming that there has

been two suits running but not involving all the parties. Mr. Mishra, learned counsel bringing a third party intervention to intervene in a suit to participate on the said proceeding to at least prevent any ambiguity being caused for non-appearance of such party in the suit and ultimately any such relief may affect the suit at the instance of the third party-intervenor. It is, in this view of the matter, Mr. Mishra, learned counsel appearing for the contesting opposite party also taking this Court to the findings arrived at in the impugned order by the Trial Court, attempted to justify the impugned order.

6. Considering the rival contentions of the parties, this Court records the submissions of learned counsel appearing for the parties that undisputedly, there are two suits involving very same disputed property certainly not involving all parties. Keeping this in view, this Court finds, for the interest of justice, not only there should be an attempt to club both the suits to be tried together, to prevent injustice to any of the parties interested in the suit property but opportunity of hearing should also be provided to all the parties at least to prevent the multiplicity of the litigation. It is keeping this in view, this Court while declining to interfere in the impugned order observes, in the event an attempt is made for trial of both the suits together, such attempt will be considered giving due regard to the provision of law and keeping in view that there may be common set of evidence.

7. The writ petition stands disposed of with the observation made hereinabove.

8. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout copy of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed

vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 & 515 dated 7th January, 2022.

Sks

(BISWANATH RATH)
JUDGE

