

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.300 of 2020

Surendra Sahu

....

Petitioner

Mr. D.N. Mohapatra,
Advocate

-versus-

Sri Sri Raghunath Mahaprabhu

.....

Opposite Party

None

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
14.03.2022**

Order No.

06.

1. In spite of sufficiency of notice, nobody is appearing to contest the matter. Therefore, this matter is decided only hearing the Petitioner.

2. This C.M.P. involves a challenge to the order of rejection of an application under Annexure-1 at the instance of the Petitioner-Defendant for adding the Endowment Commissioner as a party to the Civil Suit No.3 of 2016 for effective adjudication of the counter claim at the instance of this Defendant. Such application having been rejected by the trial Court the Petitioner-Defendant filed the present C.M.P.

3. Considering the plea of the Petitioner through Annexure-1, this Court finds, there is clear statement in filing counter claim through this particular application that the property involved belongs to the Plaintiff-Deity. It is also claimed by the Defendant that there has been pleadings involving the disputed property vis-à-vis the role of the Endowment Commissioner. Keeping this in view Mr. Mohapatra, learned counsel for Petitioner contended that unless the Endowment Commissioner is brought to the dispute to have its say, there may not be effective adjudication of the suit and as a consequence of such non-inclusion of party, there may also be difficulty in considering the counter claim of the Petitioner. There is substance in the submission of Mr. Mohapatra, learned counsel in bringing the new party. Further this Court also finds, by bringing such party, there will be no scope for multiplicity of litigation and all such issues can be decided in one go.

4. In the circumstance, this Court, therefore, while observing that unless the Endowment Commissioner is brought within the scope of the dispute, there is likelihood of no effective adjudication of the suit as well as the counter claim. This Court here takes into account the decision of this Court in the case of ***The Deity Sri Jagannath Swami and Ors. Vrs. Biswanath Panda*** : 61(1986) CLT 614, which appears to have direct application to the case at hand.

Keeping the above in view and for the settled legal position involving this issue, this Court while allowing the C.M.P. sets aside the impugned order. As a consequence of setting aside of the impugned order and allowing the application vide Annexure-1, this Court directs, on production of a copy of this order before the learned Court below, the Plaintiff will be directed to add the

concerned Endowment Commissioner as the next defendant following the disclosures in the plaint and the matter shall be finally disposed of also involving the Endowment Commissioner.

5. The C.M.P. succeeds.

(Biswanath Rath)
Judge

Ayaskanta Jena

