

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.10714 of 2012

Bhimsen Behera & Ors.

....

Petitioner(s)

Mr.S.Mantry, Advocate

-versus-

*Sabi @ Sabitri Behera &
Ors.*

....

Opposite Party(s)

Mr.L.Mishra, Advocate

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
11.05.2022**

Order No.

4

1. Heard learned counsel appearing for the parties.
2. This writ petition involves rejection of an application at the instance of defendant to recall the P.W.3 for further cross-examination. Undisputedly, P.W.3 was plaintiff. Taking this Court to the ground involving improper cross-examination and further the question required to be answered by way of further cross-examination, Mr.Mantry, learned counsel for the petitioners-defendants contended unless the defendants are provided with opportunity, there may not be effective adjudication of the suit. It is in this view of the matter, request is made for interfering in the impugned order and setting aside the same.
3. Mr. Mishra, learned counsel appearing for the contesting opposite party-plaintiff on the other hand taking this Court to the question required to be brought through cross-examination and reading through the discussions of the trial court in the impugned order contended that there is already sufficient attention to the question indicated in the application at Anneure-1. For there is extensive exercise of cross-examination involving such issue, particularly, involving the plaintiff involved herein, Mr. Mishra, learned counsel contended that there is no scope available in the event of providing opportunity but also there is

no likelihood of bringing in the position of the case by now and such exercise will also be futile.

4. Considering the rival contentions of the parties, perusal of the reasoning and the question required to be brought forward through the further cross-examination of P.W.3, this Court from paragraph-2 finds petitioner was interested in further cross-examination involving plaintiff on the aspect of genealogy, status of plaintiff and possession of the suit land. It is at this stage of the matter, on perusal of the impugned order at Abnnexure-3 , this Court finds the trial court has a clear observation to the effect that in the cross-examination to the plaintiff, all these aspects have already been gone into and there is also sufficient confrontation involving such aspect. In the circumstance and for the extensive cross-examination of P.W.3, this Court finds no further scope requiring interference in the impugned order. Consequently, the writ petition stands dismissed.

5. It is now considering the joint request of the counsels appearing and considering the suit is pending since 1999, the Civil Judge(Junior Division), Narasinghpur is directed to conclude T.S.No. 15 of 1999 at least within a period of six months from the date of communication of an authenticated copy of this order.

(Biswanath Rath)
Judge

Sks