

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.468 of 2016

Ashok Kumar Sadhangi

....

Petitioner(s)
M/S. D.Mahapatra,
Advocate

-versus-

Prafulla Kumar Mohapatra

....

Opposite Party(s)
Mr.L.Samantaray,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
06.05.2022

Order No.

08.

1. Undisputedly suit involves recovery of private loan amount. Suit comes to an end with compromise between the parties. Suit involves a decree in favour of the plaintiff involving non-compliance of the compromise decree leading to initiation in E.P. No.31 of 2013 pending on the file of Senior Civil Judge, Aska. In the meantime in another development the plaintiff as complainant also initiated proceeding under the Negotiable Instrument Act, the matter has been dismissed as claimed on technically gives rise filing of CRLLP No.41 of 2009. On entertainment of the CMP, it appears by order dated 22.03.2016, this Court directed deposit of the entire amount in the compromise and undisputedly the amount is already on deposit in this Court.
2. In course of hearing there is no quarrel over discharge of the deposit amount in favour of the decree holder subject to however the opposite party withdrawing the CRLLP No.41 of 2009. Mr. Samantaray, learned counsel appearing for the decree holder/opposite

party makes a statement to the Court that there is already steps undertaken for withdrawal of the CRLLP No.41 of 2009. In the process this Court finds, there should not be pendency of either of the litigations any further.

3. In disposal of the CMP, this Court thus records the statement of Mr.Samantary, learned counsel that the decree holder are not pursuing the remedy of CRLLP No.41 of 2009 and taking steps for withdrawal of the same. Since this Court finds, there is already deposit of whole amount and the petitioner also not interested to continue with the E.P. proceeding however if the deposited money is released in its favour. This Court declares the E.P. No.31 of 2013 shall remain closed but however only after the petitioner receives the amount lying here with interest and files an affidavit in the Executing Court all within three weeks.

4. This Court Permits the opposite party to file appropriate refund application, if necessary, for refund of the amount already deposited through its representative within seven days. Accordingly on proper application for refund of amount involved, the amount lying with interest should be released in two working days by way of bank draft and/or pay order in the name of decree holder.

5. With this observation, the CMP stands disposed of.

(Biswanath Rath)
Judge