

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1467 of 2017

Hemanta Kumar Routray ***Petitioner***
Mr. Kalpataru Panigrahi, Advocate

-versus-

Bholanath Mohapatra and others ***Opp. Parties***
Mr. Rajib Bihari Mishra, Advocate
(For Opposite Party Nos.2 and 3)

Mr. P.K. Pattanaik, Advocate
(For Opposite Party No.4)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
01.12.2022

Order No.

- 5.
1. This matter is taken up through Hybrid mode.
 2. Petitioner in this CMP seeks to assail the order dated 5th September, 2017 (Annexure-10) passed by learned Civil Judge (Junior Division), Bhubaneswar in CS No.48 of 2011, whereby an application filed by the Petitioner under Order 1 Rule 10 CPC has been rejected.
 3. Although strenuous arguments are made on behalf of learned counsel for the parties, but in view of the recent decision of the Hon'ble Supreme Court in the case of ***Sudhamayee Pattnaik and others Vs. Bibhu Prasad Sahoo and others***, reported in 2022 SCC Online SC 1234, Mr. Panigrahi, learned counsel for the Petitioner submits that interest of justice will be best served if the suit is disposed of at an early date.

4. It is submitted that some of the parties have died in the meantime and they have to take steps for their substitution before the learned trial Court. Learned counsel for the contesting Opposite Parties do not have any objection to the same.

5. In view of the above, this Court, without interfering with the impugned order, disposes of the CMP with a direction that on substitution of legal heirs of deceased parties to the suit endeavour shall be made for disposal of CS No.48 of 2011 at an early date, if there is no legal impediment.

6. Interim order dated 1st December, 2017 passed in Misc. Case No.1668 of 2017 stands vacated.

7. All the IAs are disposed of accordingly.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge