

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.288 of 2022

Nilamadhav Das

....

Petitioner(s)

Mr. S.K. Nayak,
Advocate

-versus-

Harihar Mohanty & Ors.

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
12.04.2022**

Order No.

01.

1. This C.M.P. involves a prayer for targeting the Civil Suit at the instance of the contesting defendant.

2. It is alleged that even though the contesting defendants have already filed written statement long since, the suit is kept pending on the premises that there is no sufficiency of notice on the proforma defendants. It is categorically submitted by Mr. Nayak, learned counsel for the Petitioner that the prayer involved in the suit doesn't seek any relief against the proforma defendants. However in course of submission Mr. Nayak, learned counsel for the Petitioner clarified that the proforma defendant herein is one of the judgment debtor involving the decree in a suit under challenge in the present suit. For the opinion of this Court that in spite of the positioning of the particular defendants as proforma defendants, there is likelihood of

contest by them in the suit to support the plaintiff's claim so there should be service of notice on such party and further considering that this is a case where the plaintiff is not taking any effective steps to bring the proforma defendants to the fold of the suit and the suit is pending since 2015 in spite of filing of the written statement by the contesting defendants, this Court directs the trial court on receipt of a copy of this Court's order, to pass an order on the next date of posting of the matter ensuring Special Messenger notice on such defendants at the cost of the plaintiff and by fixing a short date of appearance to ensure completion of notice in the suit. After expiry of the date of appearance attempt may be made to finalize the issue and also to close the suit preferably within a period of nine months thereafter.

3. With the aforesaid observation and direction the C.M.P. stands disposed of.

(Biswanath Rath)
Judge