

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 1476 OF 2017

Sk. Hakimuddin and others* *Petitioners

Mr. Alok Kumar Mohanty, Advocate

-versus-

Sk. Rahaman and others* *Opp. Parties

Mr. Samir Kumar Mishra, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

22.11.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this CMP seek to assail the orders dated 4th September, 2017 and 8th November, 2017 (Annexure-8 series) passed by learned 1st Additional Senior Civil Judge, Balasore in C.S. No. 702 of 2013 respectively, whereby an application filed by the Plaintiffs-Opposite Party Nos.1 to 3 under Order XVIII Rule 1 C.P.C. has been allowed and the application filed by them to recall the order dated 4th September, 2017 has been dismissed directing the Petitioners to begin the trial.
3. In course of hearing, Mr. Mohanty, learned counsel for the Petitioners submits that although the interim order was granted staying further proceeding in C.S. No.702 of 2013 vide order dated 5th December, 2017, but applying the principles of *Asian Resurfacing of Road Agency Private Limited and another –v- Central Bureau of Investigation*, reported in (2018) 16 SCC 299, learned trial Court proceeded with the trial.

4. Mr. Mishra, learned counsel for the Opposite Parties submits that pursuant to the impugned orders, the Petitioners have examined one witness and he has been discharged and the matter is posted for further evidence on behalf of Defendants.

5. Mr. Mohanty, learned counsel for the Petitioners does not dispute the same.

6. Since the orders impugned herein have already been implemented and the Petitioners have led evidence pursuant to the same, this Court feels that no fruitful purpose will be served by interfering with the impugned orders.

7. In view of the above, this Court without expressing any opinion on the merits of the impugned orders disposes this CMP as infructuous.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks