

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.13304 OF 2009

***The Secretary, Danpur Jute
Marketing Cooperative Society Ltd.***

....

Petitioner

Mr.N.C.Pati, Sr.Adv.

-versus-

Sri Mathurananda Sahoo & anr.

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
12.12.2022**

Order No.

05.

1. Heard learned counsel for the Petitioner and none appears for the O.Ps.
2. The Writ Petition involves rejection of an Application under Order 7 Rule 11 of C.P.C. rejecting the request of the Defendant to take out the suit on preliminary objection. Application involved has been rejected giving rise to filing of the present Writ Petition.
3. Considering the issue involved in the Order 7 Rule 11 of C.P.C. Application, this Court finds, there is no infirmity in rejecting the Application to take up such issue as a preliminary issue. This Court for the reason therein finds, there is no scope for interfering with the impugned order. However, for there is technical rejection of the Application, vide the impugned order, if the suit is surviving, the

points raised therein are brought by way of issue and request made for framing particular issue, necessary issue will be framed and such issue will be decided along with other issues in the ultimate trial of the suit. This Court further clarifies, in determination of the issue likely to be raised along with other issues, the observations in the impugned order shall have no influence.

4. The Writ Petition stands disposed of accordingly.

M.K.Rout



(Biswanath Rath)
Judge