

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.455 OF 2022

Pankaj Kumar Mediratta

....

Petitioner

Mr.S.Mishra, Adv.

-versus-

Dr.Anil Kumar Mediratta & ors.

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
19.5.2022**

**Order
No.**

1.

1. Learned counsel for the Petitioner.

2. The CMP involves rejection of the Application under Order 1 Rule 10(2) of C.P.C. undisputedly at the instance of Defendant No.1.

3. Learned counsel for the Petitioner submitted that the above Application was moved on the premises that not only the Plaintiffs brought some of the subsequent Purchasers, as Defendants for consideration of the suit involved but they have deliberately omitted certain other Purchasers from the Plaintiffs involving the suit property. Learned counsel for the Petitioner opposing to the rejection of such Application contended that looking to the nature of relief of perpetual injunction involved therein involving the very same property since other Parties have already come into possession, it becomes the duty of the Plaintiffs to bring such Parties to at least to

have effective adjudication of the suit. Taking this Court to the plea taken in the Written Statement, learned counsel for the Petitioner also contended that this Defendant has already a clear pleading on this aspect. It is also alleged, in spite of such clear pleading in the Written Statement, the Plaintiffs are not setting their Brief in order compelling the Defendants to bring such Party to at least prevent any risk to it by virtue of decree passed in favour of the Plaintiffs. It is in the above backgrounds, learned counsel for the Petitioner contested the impugned order and requested this Court for interfering with the impugned order and set aside the same thereby allowing such Application involved therein.

4. Considering the contentions of the learned counsel for the Petitioner and looking to the nature of the suit, this Court finds, undisputedly the suit involves a decree of perpetual injunction. This Court finds, even though learned counsel for the Petitioner is justified saying, in the event the relief granted involving perpetual injunction in the execution of suit decree ultimately the Party sought to be added by the Defendants will be a necessary Party. This Court observes, it is for the Plaintiffs to set their Brief in right direction not only that, to bring real Contestants to get effective adjudication and in no case, it becomes the responsibility of the Defendants to attempt to cure the defects committed by the Plaintiffs. For the opinion of

this Court, in the event the Plaintiffs have major defects leading to no effective execution of decree, if any, passed and even after the defects are brought to the notice are not even cured after the pleadings have been brought in Written Statement, the Plaintiffs have to suffer for not taking appropriate step. Law is fairly settled that the Plaintiffs have to stand on their own legs. It is up to the Plaintiffs to proceed with their own case.

5. This Court for the above observation finds, there is no ground to interfere with the impugned order except observing, the judgment, if any, passed in the suit involved herein shall be binding only on the Parties.

6. The CMP stands disposed of accordingly.

(Biswanath Rath)
Judge

M.K.Rout