

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 651 OF 2019

Bijaya Kumar Mohapatra ***Petitioner***

Mr. Subhransu Bhusan Mohanty, Advocate

-versus-

Ramakrushna @ Ramahari Panigrahi ***Opp. Party***

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
24.11.2022**

Order No.

5. 1. This matter is taken up through hybrid mode.
2. Mr. Mohanty, learned counsel for the Petitioner submits that notice on the sole Opposite Party is not yet sufficient. Hence, he may be permitted to take steps for service of notice and the interim order may be extracted.
3. While considering the matter for extension of interim order, on perusal of the record, it reveals that the Petitioner has filed this CMP assailing the order dated 29th April, 2019 (Annexure-8) passed by learned Civil Judge (Senior Division), Aska in C.S. No. 69 of 2014, whereby without waiting for the appearance of the Sub-Registrar, Aska (Ganjam) to be examined as witness, learned trial Court closed the evidence of the Plaintiff.
4. While passing the impugned order, learned trial Court referred to the order dated 13th March, 2019 passed by this Court in CMP No.238 of 2019, which reads as under:

“Heard Mr. S.B. Mohanty, learned counsel for the petitioner.

Learned counsel for the petitioner submits that plaintiff-petitioner has examined three witnesses. He does not wish to adduce any further evidence. Accordingly, he prays for a direction to the learned Civil Judge (Senior Division), Aska to dispose of C.S. No.69 of 2014 at an early date.

Considering the innocuous prayer of the learned counsel for the petitioner, the petition is disposed of with a direction to the learned Civil Judge (Senior Division), Aska, to dispose of C.S. No.69 of 2014 as expeditiously as possible, preferably within a period of three months from the date of production of certified copy of this order.”

On perusal of the said order, it is apparent that the Petitioner had already examined three witnesses by the time of disposal of CMP No.238 of 2019 and submitted that he does not wish to adduce any further witness. Accordingly, he prayed for a direction to learned Civil Judge (Senior Division), Aska to dispose of C.S. No.69 of 2014 at an early date. Considering such submission, the CMP was disposed of as aforesaid.

5. Mr. Mohanty, learned counsel for the Petitioner without referring to the same, submitted that due to election duty, the Sub-Registrar, Aska (Ganjam) could not appear on the date fixed and submits that a further date may be fixed for appearance of the Sub-Registrar, Aska (Ganjam) for his examination. Such a prayer is contrary to the submission made by learned counsel at the time of disposal of CMP No.238 of 2019.

6. While making submission, Mr. Mohanty, learned counsel for the Petitioner did not bring those facts to the notice of this Court. It came to the light of the Court while perusing the impugned order under Annexure-8 as well as the order passed in CMP No.238 of 2019 annexed to the CMP as Annexure-6.

7. At this stage, Mr. Mohanty, learned counsel for the Petitioner prays for withdrawal of the CMP submitting that he will be careful in future while making submission.

8. Accordingly, this CMP stands dismissed as withdrawn.

9. Interim order dated 25th June, 2019 passed in I.A. No.683 of 2019 stands vacated.

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

(K.R. Mohapatra)
Judge



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