

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.14629 Of 2020
(Through hybrid mode)**

Ladi Mrutyunjay Rao

Petitioner

Mr. S.S.Rao, Advocate

-versus-

Ladi Chandrasekhar Rao

Opposite Party

Mr. Shanti Prakash Mohanty, Advocate

CORAM: JUSTICE ARINDAM SINHA

**ORDER
11.03.2022**

**Order No.
03.**

1. Mr. Rao, learned advocate appears on behalf of petitioner and submits, deed of partition dated 19th December, 2017 was in execution of the award. His client, in spite of best efforts and due diligence, could not produce the award before the Court below. Hence, application has been filed under rule 27 in order XLI, Code of Civil Procedure for adducing additional evidence. He submits, procedure in the Code is applicable to writ petitions.

2. Mr. Mohanty, learned advocate appears on behalf of opposite party and submits, there should not be interference with impugned order. The Court below found that by no stretch of imagination the deed of partition could be treated as award. Suit is also pending.

3. It would be improper to treat the writ petition proceeding as an appeal proceeding, against impugned order. Article 227 in the Constitution provides for superintendence and regulation of procedure, not appeal. As such, the application cannot be maintained. However, since petitioner took recourse to Court under section 36, Arbitration and Conciliation Act, 1996, he may apply for review before that Court, if permissible in law.

4. With above observations, the writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant

