

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 485 of 2022

Abdul Mokim & another **Petitioners**

Ms. Rita Singh, Advocate

-versus-

Suhana Begum & another **Opp. Parties**

**CORAM:
JUSTICE M.S. SAHOO**

ORDER

31.05.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners.
3. The petitioners are aggrieved by order dated 25.04.2022 passed in C.S. 1010 of 2019 by the learned Civil Judge (Sr. Division), 1st Court, Cuttack. Paragraph-4 of the order is quoted herein:-

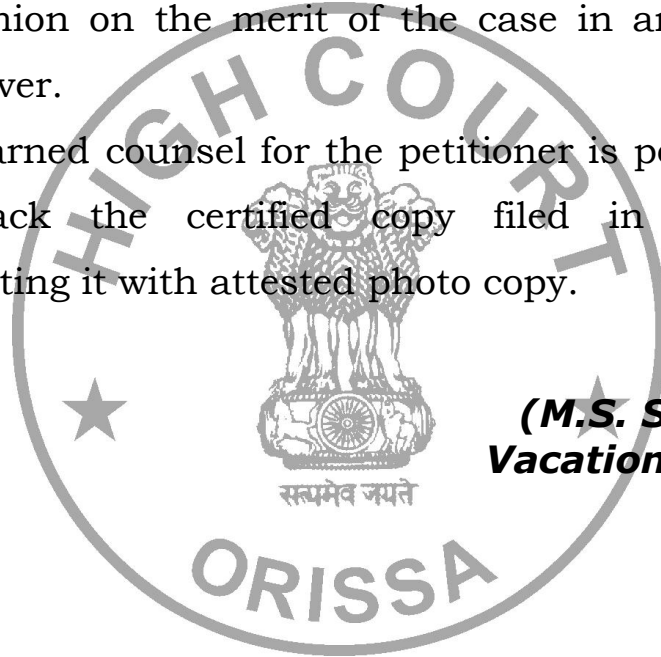
*“4. On perusal of the case record, it is seen that by a registered agreement to sale the defendant of the suit executed the agreement with the plaintiff to sale A0.007 decimals of land out of plot no.370 of ROR Khata No.287. On careful perusal of the petition, it appears that the third party intervener/petitioner wants to convert the nature of the suit of Specific Performance of Contract to a suit of partition on family property. In **Bijaya Pratap vrs. Sambhu Saran Sinha reported in 1996 (10) SCC 53**, the Hon’ble Apex Court held that “a third party or a stranger to the contract cannot be added so as to convert a suit of one character into a suit of different character.” The petitioner in this case is a stranger to the agreement and as decided in the case supra*

*she is trying to convert the suit of specific performance of contract to a suit of partition which is not permissible in law. As such the intervenor-petitioner failed to establish his locus standi to implead as a party to the suit. Hence, the petition being devoid of merit stands **rejected**. Put up on 29.04.2022 for further evidence from the side of plaintiff.”*

4. Learned counsel for the petitioners seeks liberty to withdraw the petition to take recourse of the appropriate remedy as available under law.

5. It is clarified that this Court has not expressed any opinion on the merit of the case in any manner whatsoever.

6. Learned counsel for the petitioner is permitted to take back the certified copy filed in court by substituting it with attested photo copy.



(M.S. Sahoo)
Vacation Judge