

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 534 OF 2022

Rashmi Rekha Jena *Petitioner*
Mr. Saktidhar Das, Senior Advocate
being assisted by Mr. M.M. Swain, Advocate
-versus-
Asha Jena *Opp. Party*

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
07.09.2022

4. 1. This matter is taken up through hybrid mode.
2. The CMP has been filed assailing the order dated 8th March, 2022 (Annexure-6) passed in F.A.O. No.07 of 2021, whereby learned Additional District Judge, Anandapur while dismissing the appeal confirmed the order dated 15th December, 2021(Annexure-5) passed by learned Civil Judge (Senior Division), Anandapur in I.A. No.38 of 2021 (arising out of C.S. No.114 of 2021).
3. Mr. Das, learned Senior Advocate submits that the Petitioner is the widowed daughter-in-law of the Opposite Party. The Petitioner has filed C.S. No.114 of 2021 with a prayer for a declaration that she has half share in the suit Schedule-A property of the plaint. Along with the plaint, she filed an application under Order XXXIX Rules 1 and 2 C.P.C. in I.A. No.38 of 2021, which was dismissed. Being aggrieved, the Petitioner filed F.A.O. No.7 of 2021. But, to her misfortune, the same was dismissed by learned Additional District Judge,

Anandapur on 8th March, 2022. It is his submission that interest of justice will be best served, if the suit is disposed of at an early date without being influenced by the observation made by learned trial Court as well as learned Appellate Court in the impugned orders under Annexures-5 and 6.

4. The observations made by learned trial Court as well as learned Appellate Court in the impugned orders under Annexures-5 and 6 are prima facie in nature, which are made for just adjudication of the case. The suit has to be decided by taking into consideration the material available on record including evidence, both oral and documentary, available before learned trial Court. Hence, apprehension of the Petitioner is baseless.

5. Accordingly, this Court without interfering with the impugned orders under Annexures-5 and 6 disposes of the CMP with the aforesaid observation.

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

(K.R. Mohapatra)
Judge