

IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. No.16 of 2008

Dhadi Nayak & Another

....

Appellants

Mr. A.K. Tripathy, Advocate

-versus-

Shyamsundar Biswal & Others

....

Respondents

Mr. D.P. Mohanty, Advocate (R.1)

Mr. A.C. Mohapatra, Advocate (R.3 to 7)

CORAM:

MR. JUSTICE D.DASH

ORDER

01.08.2022

R.S.A. No.16 of 2008

&

I.A. No.1019 of 2019

Order No.

15. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).

2. This Application under Order-23 Rule 3 of the Code of Civil Procedure has been filed with the prayer for disposal of this Appeal in terms of the compromise arrived at between the parties. Except Respondent No.2, who has placed his LTI, all other parties to the Appeal have signed on the said Application and the same is supported by the Affidavits of those parties.

It is seen therefrom that the parties have distributed the suit properties amongst themselves so as to be the absolute owners of the same and accordingly possess.

3. Mr. A.K. Tripathy, learned counsel for the Appellants and Mr. D.P. Mohanty, learned counsel for the Respondents (except Respondent No.2) being present submit that the detail terms and conditions as embodied in the Application have been drafted under the instruction of the parties and those having been read over and explained, they have signed after finding all those to have been

correctly reduced into writing, whereas one of them has placed his LTI thereon. It is also stated by them that the parties have signed on that Compromise Application in their presence after having admitted to have entered into the said Compromise amongst themselves out of their free will and desire for being so recorded in this Appeal in order to restore their cordial relationship in putting an end to the litigation. They also state to have identified by their respective parties and have been authorized to admit the Compromise on their behalf in Court. They accordingly admit the Compromise in Court today. They, therefore, submit for acceptance of compromise and disposal of this Appeal as well as the Cross-Appeal in terms of the Compromise.

4. Learned counsel for the State being present does not dispute the position that in respect of those two items of properties which form the subject matter of the suit, the State had not contested in the Trial Court nor before the First Appellate Court and no Second Appeal has also been filed at the behest of the State.

5. Keeping in view the submissions made, the averments taken in the Compromise Application being gone through; this Court finds no such reason to say that the same is not lawful.

In view of the above, the Appeal is hereby disposed of in terms of Compromise arrived at by the parties concerning the subject matter of the suit as so stated in detail in the Application. The Compromise Application with the Annexure shall form part of the decree.

6. The Appeal is accordingly disposed of. No order as to cost.

(D. Dash)
Judge