IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 1470 OF 2016

Nibedita Swain ..... ***Petitioner***

None

-versus-

Pramila Kumari Nayak .... ***Opp. Party***

Mr. A.K. Panda, Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER

Order No. **30.08.2022**

5. 1. This matter is taken up through hybrid mode.

2. None appears for the Petitioner at the time of call.

3. This CMP has been filed assailing the order dated 11th March, 2016 passed by learned Civil Judge (Senior Division), Bhawanipatna in Civil Suit No.73 of 2015, whereby an application under Order I Rule 10(2) C.P.C. filed by Opposite Party (Defendant in the suit) has been allowed.

4. Mr. Panda, learned counsel for the Opposite Party submits that C.S. No. 73 of 2015 has been filed for specific performance of contract. The Defendant-Opposite Party appeared and filed counter claim claiming right, title and interest over the suit land as well as for delivery of possession to her including her husband along with other relief. The Defendant-Opposite Party relied upon the declaration-cum-acknowledgement dated 21st November, 2014 executed by the husband of Plaintiff on 21st November, 2014, wherein it has been disclosed that the mother-in-law of the Plaintiff had sold the suit land to the Defendant. The mother-in-law of the

Plaintiff is dead now. He further submits that the Defendant and her husband are staying over the suit land. The Plaintiff is a tenant under the Defendant-Opposite Party. Thus, taking into consideration that the suit land was sold in favour of Defendant-Opposite Party and her husband, learned trial Court allowed the interim application filed under Order 1 Rule 10(2) C.P.C. He, therefore, prays for dismissal of CMP.

5. Since none appears on behalf of the Petitioner to pursue the matter, this Court has no other option than to dismiss the CMP for non-prosecution. Accordingly, the CMP stands dismissed for non-prosecution.

6. The interim order dated 21st February, 2017 passed in Misc. Case No. 1540 of 2016 stands vacated.

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

(K.R. Mohapatra)
Judge

bks