

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 599 OF 2022

Asiruddin Khan

....

Petitioner

Mr. L.N. Rayatsingh, Advocate

-versus-

Mir Muslim

....

Opp. Party

Mr. Prafulla Kumar Rath, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

02.12.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 6th May, 2022 (Annexure-5) passed by learned Additional Senior Civil Judge, Bhadrak in C.S. No.205 of 2015-I, whereby the petition to call for certain documents from the office of the Sub-Registrar, Bonth to be marked as exhibits has been dismissed.
3. Mr. Rayatsingh, learned counsel submits that Defendant is the Petitioner in this CMP. C.S. No.205 of 2015 has been filed by the Plaintiff for specific performance of contract. The Plaintiff- Opposite Party had filed an application before the Sub-Registrar, Bonth on 20th January, 2015 enclosing a copy of the unregistered agreement dated 24th April, 2014 along with the Xerox copy of certain sale deeds. The said application was registered as Misc. Case No.1 of 2015. The Defendant-Petitioner has received the copies of the said documents under the provisions of Right to Information Act, 2005 (for short 'the Act'). It is alleged that the same cannot be admitted into evidence, as these are obtained under the Act. Hence, an application to call for those documents was filed before learned trial Court, which was rejected treating it

to be premature. Assailing the said order, this CMP has been filed.

4. Mr. Rayatsingh, learned counsel for the Petitioner submits that unless the documents are called for and exhibited, the Defendant-Petitioner will be seriously prejudiced. This aspect was not considered by learned trial Court while rejecting the application. Hence, the impugned order under Annexure-5 is not sustainable in the eyes of law and is liable to set aside.

5. Mr. Rath, learned counsel for the Opposite Party, on the other hand, submits that there is no infirmity in the impugned order under Annexure-5, in as much as, learned trial Court has rightly observed that the petition is premature. Unless an endeavour is made by learned counsel for the Petitioner to exhibit those documents, he has obtained through the Act, the petition to call for documents from the Sub-Registrar, Bonth is not maintainable. He, therefore, prays for dismissal of the CMP.

6. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that since the trial of the suit has not yet commenced and the Defendant-Petitioner has not made any endeavour to admit the documents available with him in evidence, a prayer to call for the documents from the Sub-Registrar, Bonth is premature, as rightly held by learned trial Court. In that view of the matter, I find no infirmity in the impugned order under Annexure-5.

7. Accordingly, this CMP being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge