

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.603 OF 2022

Dulari Majhi

Petitioner

Mr. Dwarika Prasad Mohanty, Advocate

-versus-

Hemalata Behera

.... ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
21.07.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this CMP seeks to assail the order dated 25th April, 2022 (Annexure-5) passed by learned Civil Judge (Junior Division), Balasore in C.M.A. No.19 of 2016, whereby he rejected an application filed under Order XXII Rule 3 C.P.C. to substitute the legal representative of the deceased Applicant No.1 therein.
 3. Mr. Mohanty, learned counsel for the Petitioner submits that Jaga Majhi-Applicant No.1 in C.M.A. No.19 of 2016 under 47 C.P.C., died during pendency of the said petition. As he has died issueless, his nephew, namely, Basu Majhi filed an application under Order XXII Rule 10 C.P.C. to be impleaded as his legal representative. The said application was rejected on the ground that no document has been filed to show that Basu Majhi is the legal representative of the deceased Jaga Majhi.
 4. In course of hearing, Mr. Mohanty, learned counsel for the Petitioner submits that interest of justice will be best served, if the Petitioner (Applicant No.3 in C.M.A. No.19 of 2016)

files a fresh application along with detailed information and documents and prays for a direction to consider the said application in accordance with law.

5. Taking into consideration the submission made by Mr. Mohanty, learned counsel for the Petitioner, this Court without delving into the correctness of the impugned order under Annexure-5 disposes of the CMP with a direction that in the event the Petitioner files a fresh application for substitution of the deceased Jaga Majhi (Applicant No.1 in C.M.A. No.19 of 2016) along with detailed information and relevant documents, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge

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