

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.1176 of 2018

Pritilata Lenka

.... ***Petitioner(s)***
Mr.S.K.Nayak 2,
Advocate

-versus-

Pramod Kumar Biswal & Ors.

.... ***Opposite Party(s)***
Mr.S.Mishra,Adv.
For O.P. 1 to 19

CORAM:
JUSTICE BISWANATH RATH

ORDER
13.05.2022

Order No.

06.

1. Heard the learned counsel appearing for the parties.
2. Undisputedly the application involving the impugned order at the instance of defendant No.2 to call for registered sale deeds as per the disclosures in the affidavit in the plaint averment in Paragraph-2. Advancing his submission in opposition of the impugned order Mr.Nayak, learned counsel submitted that unless the direction be given to the plaintiff to provide the sale deeds, there cannot be ascertainment involving the dispute involved herein. In the above claim defendant wants production of the certified copy of the sale deeds clearly borne in paragraph-12 of the plaint. Learned counsel appearing for the petitioner-defendant claims there has been no proper consideration of the application involved therein and thus this Court is required to interfere in the impugned order and dispose of the application accordingly.
3. Mr.Mishra, learned counsel appearing for the plaintiff submits that plaintiff-opposite parties have taken certain steps on the basis of

sale deeds and further submits that once plaintiff have taken certain pleadings on the basis of documents they ought to succeed in their attempt on the basis of pleading and evidence in no circumstance, they should expect their succeeds in the cooperation of the defendants. As ultimately the trial will be decided on the foundation of the plaint and evidence to support the plaintiffs, thus there has been right rejection of such application.

4. Considering the rival contention of the parties and taking into account the claim of the petitioner-defendant, this Court finds source of calling for document appeal to be through the pleading at Paragraph-2 of the plaint. For the opinion of this Court once plaintiffs have taken certain averments on the basis of sale deeds, it is only for the plaintiff to establish their case of production of documents, if any. Further this Court also finds, there is no cross suit at the instance of the defendant. This Court also observes production of sale deeds though relied on the plaint averments by the plaintiffs is dependent on the attempt of the plaintiffs and it is no way the responsibility of the defendants, this Court therefore while declining to interfere the impugned order however observes the plaintiffs have to succeed on their own case.

5. The CMP stands disposed of.

(Biswanath Rath)
Judge