

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 679 OF 2022

D. Ananda Rao Dora

.....

Petitioner

Mr. Abinash Routray, Advocate

-versus-

S.D.O., Sonapur

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

03.08.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. Order dated 20th June, 2022 (Annexure-9) passed by learned District Judge, Sonapur in Civil Revision No.01 of 2022 is under challenge in this CMP, whereby he held the revision filed under Section 115 C.P.C. to be not maintainable against interlocutory order.
3. Mr. Routray, learned counsel for the Petitioner submits that an application under Section 47 C.P.C. was filed in Execution Case No. 07 of 1977. The said application was registered as CMA No. 01 of 2022. The matter was posted for hearing on 10th March, 2022 on which date learned counsel appearing on behalf of the Petitioner sought for an adjournment. Learned Civil Judge (Junior Division), Sonapur rejected such application under Section 47 C.P.C. holding that the Petitioner has no *locus standi* as he was earlier set *ex parte* in the said execution case. Assailing the same, the Petitioner filed Civil Revision No.01 of 2022. Learned District Judge, Sonapur vide his order dated 20th June, 2022 dismissed the revision on a

finding that the order impugned therein is interlocutory in nature. He further submits that rejection of an application under Section 47 C.P.C. is a final order and consequently comes under the proviso to Section 115 C.P.C. Hence, a revision against the order passed by learned Civil Judge (Junior Division), Sonapur in CMA No. 1 of 2022 rejecting an application under Section 47 C.P.C. is maintainable.

4. In course of hearing, Mr. Routray, learned counsel for the Petitioner submits that since the execution case is of the year, 1977, interest of justice will be best served, if the Petitioner moves an application for recall of the order dated 20th June, 2022 before learned District Judge, Sonapur and to hear the revision on merit. He, therefore, prays for withdrawal of CMP.

5. In view of such submission, this CMP is disposed of as withdrawn with an observation that if an application for recall of the order dated 20th June, 2022 passed in Civil Revision No. 1 of 2022 is filed within a period of seven days hence along with certified copy of this order, learned District Judge, Sonapur shall do well to consider the same on its own merit, giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge

bks