

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 697 OF 2022

Jagannath Nath

..... Petitioner

Mr. Sisir Kumar Purohit, Advocate

-versus-

Prafulla Kumar Sahu and others

.... Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

04.08.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. This CMP has been filed assailing orders dated 11th July, 2022 (Annexure-1) passed by learned Civil Judge (Senior Division), Sambalpur, where by learned trial Court rejecting an application filed by the Defendant for adjournment, closed the evidence and posted the matter to 15th July, 2022 for argument.
3. Mr. Purohit, learned counsel submits as the Defendant/Petitioner was pre-occupied in the agricultural work, he could not produce his witness for examination. Accordingly, an application was filed on 11th July, 2022 for adjournment of the hearing and production of witness on behalf of the Defendant for examination. The said application was rejected on the ground that the Defendant had earlier sought for adjournments. It is further submitted that as the learned counsel for the Plaintiffs was bedridden due to fracture of his leg, he could not have made himself available to cross-examine the witness of Defendant. In such an event, production of witness on behalf of the Defendant would not have served any purpose.

He, however, submits that the Defendant is now ready to produce his witness if an opportunity is given. It is his submission that although the suit was posted to 15th July, 2022 for argument, but argument in the suit has not yet commenced due to illness of learned counsel for Plaintiffs. In view of the above, he prays for setting aside the impugned order and prays for a direction to afford an opportunity to the Defendant to produce his witness(es).

4. Taking into consideration the peculiar facts and circumstances of the case and that the Defendant/Petitioner is ready and willing to produce his witness, this Court disposes of the CMP with a direction that if the Defendant produce his witness(es) on 16th August, 2022, he shall be given an opportunity to examine his witness(es) and proceed with the suit accordingly. It is made clear that if the Defendant fails to produce witness(es) on that date or on any further date as will be fixed by learned trial Court no further adjournment should be given and learned trial Court may proceed with the matter in accordance with law.

5. Since this order has been passed in absence of Plaintiffs/Opposite Parties they are at liberty to seek variation of the same, if they feel aggrieved.

Issue urgent certified copy of this order on proper application.

(K.R. Mohapatra)
Judge