

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.718 of 2022

Mandhata Bijay Ketan Bidyadhar ***Petitioner***
Mohapatra

Mr. Samir Kumar Mishra, Advocate

-versus-

Satyanarayan Patra and others ***Opp. Parties***

Mr. Dinesh Kumar Mohanty, Advocate
(For Opposite Party Nos. 3 and 4)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
28.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Petitioner in this CMP seeks to assail the order dated 4th May, 2022 (Annexure-5) passed by learned Senior Civil Judge, Puri in CS No.305 of 2019, whereby an application filed by Opposite Party Nos. 3 and 4 under Order 1 Rule 10 CPC has been allowed.
3. Mr. Mishra, learned counsel for the Petitioner submits that CS No.305 of 2019 was filed for partition. Opposite Party Nos.3 and 4, who have no locus standi, claiming themselves to be the legal heirs of late Gopabandhu Patra, filed an application under Order 1 Rule 10 CPC. It is submitted that in the consolidation proceeding they have projected themselves as children of one Pitabasa Patra. Thus, at different proceedings they are taking different stand. Although a detail objection to

the petition under Order 1 Rule 10 CPC was filed, learned trial Court, without considering the same and without assigning any reason, allowed the application under Order 1 Rule 10 CPC. Thus, the impugned order is an outcome of total non-application of judicial mind, the same is liable to be dismissed.

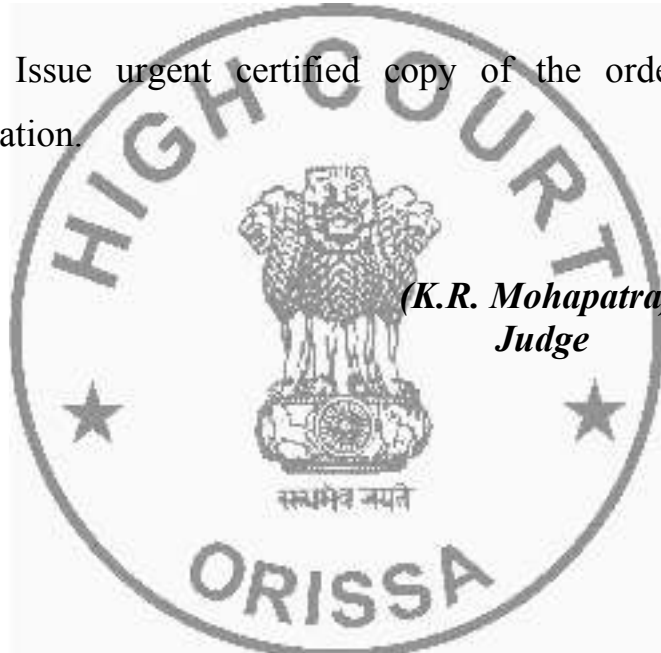
4. Mr. Mohanty, learned counsel for Opposite Party Nos. 3 and 4 refuting the above submitted that there are materials to show that they are the legal heirs of Gopabandhu Patra. While adjudicating the application under Order 1 Rule 10 CPC, learned trial Court is not required to delve into the merit of the case of Opposite Party Nos.3 and 4 (interveners), which can only be adjudicated in the suit itself. Although no reason has been assigned by learned trial Court, the petition under Order 1 Rule 10 CPC filed by Opposite Party Nos.3 and 4 deserved to be allowed and accordingly, the impugned order has been passed. Hence, the same warrants no interference.

5. Considering the submissions of learned counsel for the parties and on perusal of record, it appears that learned trial Court, while allowing the application under Order 1 Rule 10 CPC neither taken into consideration the objection filed by the Petitioner nor has assigned any reason for allowing such application. Every order by a Court should be supported by reason. An order without any reason cannot sustain for a moment. Thus, I have no hesitation to set aside the impugned order dated 4th May, 2022 (Annexure-5) passed by learned Senior Civil Judge, Puri in CS No.305 of 2019.

6. Accordingly, the impugned order is set aside. Learned trial Court is directed to adjudicate the petition under Order 1 Rule 10 CPC afresh giving opportunity of hearing to the parties. It is expected that learned Senior Civil Judge, Puri will pass a reasoned order on consideration of the petition under Order 1 Rule 10 CPC and objection filed by the present Petitioner.

7. With the aforesaid observation and direction, the CMP is allowed.

Issue urgent certified copy of the order on proper application.



s.s.satapathy