

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 784 of 2022

Jogindranath Pradhan and others* *Petitioners

Miss Deepali Mahapatra., Advocate

-versus-

Purna Chandra Mahapatro* *Opp. Party

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
13.09.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner has filed this CMP assailing the order dated 13th May, 2022 (Annexure-7) passed by learned Civil Judge (Junior Division), Aska in CS No.42 of 2011, whereby it rejected an application under Section 151 CPC filed by the Petitioners/Defendants to examine their witness.
3. In course of hearing, Miss Mahapatra, learned counsel submits that vide order dated 2nd May, 2015, Petitioners/Defendants were precluded from adducing any evidence. Unless the said order is recalled a petition under Section 151 CPC to examine the witnesses will not be maintainable. Petitioners probably could not challenge the said order as immediately thereafter they filed CMP No.641 of 2015 assailing order dated 20th April, 2015 (Annexure-5 to the said CMP) of that Court rejecting an application filed under Section 10 CPC. She, however, submits that interest of justice will be best served if the Petitioners/Defendants file an application to recall the order dated 2nd May, 2015, whereby they were precluded from adducing evidence.

4. In view of such submission made by learned counsel for the Petitioner, this CMP is disposed of with an observation that Defendants/Petitioners, if file an application for recall of order dated 2nd May, 2015 passed in the aforesaid suit, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned before proceeding further in the suit.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy