

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**CMP NO. 853 OF 2022**

***Subrat Bag and another*** ..... ***Petitioner***  
Mr. Dharmendra Sethy, Advocate  
-Versus-

***Purna Chandra Bag and others*** ..... ***Opp. Parties***

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

**ORDER**  
**21.10.2022**

**Order No.**

3. 1. This matter is taken up through hybrid mode.
2. Order dated 1<sup>st</sup> August, 2022 (Annexure-2) passed by learned Senior Civil Judge, Nilgiri in C.S. No. 181 of 2021 is under challenge in this CMP, whereby an application filed by the Petitioners under Order 1 Rule 10(2) C.P.C. to be impleaded as parties to the suit has been rejected.
3. In course of hearing, Mr. Sethy, learned counsel for the Petitioners submits that the Petitioners have already filed C.S. No.22 of 2022 claiming right, title and interest over the property involved in C.S. No.181 of 2021. In the case of ***Sudhamayee Pattanaik and others -v- Bibhu Prasad Sahoo and others***, reported in 2022 SCC Online SC 1234, the Hon'ble Supreme Court has held as under:

*“11. At the outset, it is required to be noted that the defendants in the suit filed application under Order 1 Rule 10 CPC and prayed to implead the subsequent purchasers as party defendants. The suit is for declaration, permanent injunction and recovery of possession. As per the settled position of law, the plaintiffs are the domus litis. Unless the court suo motu directs to join any other person not*

*party to the suit for effective decree and/or for proper adjudication as per Order 1 Rule 10 CPC, nobody can be permitted to be impleaded as defendants against the wish of the plaintiffs. Not impleading any other person as defendants against the wish of the plaintiffs shall be at the risk of the plaintiffs. Therefore, subsequent purchasers could not have been impleaded as party defendants in the application submitted by the original defendants, that too against the wish of the plaintiffs.”*

4. Since the Plaintiff opposes the impleation of parties and learned trial Court has found that the Petitioners could not establish the case to be impleaded as parties to the suit. I am not inclined to entertain the CMP.

5. It is, however, made clear that since the Petitioner has already filed a suit, they may work out their remedy in accordance with law.

6. With the aforesaid observation, this CMP is disposed of.

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

bks

**(K.R. Mohapatra)**  
**Judge**