

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 873 of 2022

Sarat Kumar Sahu

..... Petitioner

Mr. Santosh Kumar Dwivedy, Advocate

-versus-

Akshaya Kumar Sahu and others

..... Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

23.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Petitioner in this CMP seeks to assail the order dated 11th July, 2022 (Annexure-1) passed by learned Civil Judge (Senior Division), Soro in CS No.220 of 2018, whereby his application filed under Order XIII Rule 1 CPC to exhibit RSD Nos.1998 dated 5th April, 1982 and 2805 dated 13th July, 1999 was rejected.
3. Mr. Dwivedy, learned counsel for the Petitioner submits that the suit has been filed for partition. In order to establish the fact that some of the suit properties were purchased from joint family nucleus, the Petitioner sought leave of the Court to exhibit the aforesaid two documents in the midst of examination of witnesses of the Plaintiff. The said application was rejected only on the ground that earlier application dated 17th November, 2021 filed by the Plaintiff seeking leave to exhibit certain documents, was allowed in which the Petitioner, though had an opportunity, did not make any prayer to admit

the aforesaid two documents into evidence. Learned trial Court also observed that no explanation has been given as to why the Petitioner wants to admit the aforesaid two documents in evidence at a belated stage.

3.1 Mr. Dwivedy, learned counsel for the Petitioner further submits that in fact the petition filed under Order XIII Rule-1 CPC did not contain any reason to mark the aforesaid two documents in evidence. Moreover, evidence of the Plaintiff has not yet been closed. He, therefore, submits that interest of justice will be best served if the Petitioner files a fresh application with better particulars for leave, as aforesaid, as the two sale deeds in question are relevant for just adjudication of the suit.

4. Upon hearing learned counsel for the Petitioner, this Court disposes of the CMP with an observation that in the event Petitioner files an application with better particulars seeking leave of the Court to mark the RSD Nos.1998 dated 5th April, 1982 and 2805 dated 13th July, 1999 in evidence on the reopening day of the ensuing Puja Holidays, i.e., 10th October, 2022 along with certified copy of this order, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge