IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 929 of 2022

Gopal Chandra Satapathy ..... ***Petitioner***

Mr. P.Panda, Advocate

-versus-

Kanak Senapati and others .... ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER

Order No. **14.10.2022**

2. 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 1st Additional Senior Civil Judge, Balasore in CS No.709 of 2013-I, rejecting an application to recall the order dated 26th March, 2018, whereby an application for amendment of the plaint was allowed.

3. Mr. Panda, learned counsel for the Petitioner submits that CS No.709 of 2013-I was filed for declaration of right, title and interest over the suit property and to declare the sale deeds executed in favour of Defendant Nos.1 to 3 as null and void. The Plaintiff had earlier filed an application in the year 2016 for amendment of the plaint, which was rejected. But subsequently, he filed another application on 19th January, 2018 under Order VI Rule 17 CPC for amendment of the plaint, which was allowed vide order dated 26th March, 2018. Hence, the Petitioner filed an application to recall the order dated 26th March, 2018, as the same was passed without taking into consideration the earlier order of rejection of petition for

amendment. Learned trial Court, without considering the same, dismissed the petition. Hence, this CMP has been filed.

4. Upon hearing learned counsel for the Petitioner and on perusal of record, it appears that although the petition for amendment of the plaint was allowed vide order dated 26th March, 2018, but an application for recall of the said order was filed only at the time of argument of the suit in the year 2022. Learned trial Court has also discussed that after amendment of the plaint the Defendants without raising any objection to the same, participated in the hearing of the suit. In view of the above, learned trial Court has committed no error in dismissing the petition to recall the order dated 26th March, 2018, which was filed at the stage of argument of the suit.

5. Accordingly, the CMP stands dismissed being devoid of any merit.

(K.R. Mohapatra)
Judge

s.s.satapathy