

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**CMP No. 974 OF 2022**

***Sri Sri Jagannath Thakur Bije* .... *Petitioners***  
***Damodarpur Hal Suelpur and others***

Mr. Dinesh Kumar Mohanty, Advocate

-versus-

***Sri Madan Mohan Panda and others* .... *Opp. Parties***

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

**ORDER**

**01.12.2022**

**Order No.**

2. 1. This matter is taken up through hybrid mode.
2. Order dated 17<sup>th</sup> August, 2022 (Annexure-6) passed by learned 1<sup>st</sup> Additional Senior Civil Judge, Balasore in F.D.C.S. No.217 of 1990 is under challenge in this CMP, whereby the report of the Commissioner and allotment sheet along with the sketch map has been accepted.
3. Mr. Mohanty, learned counsel for the Petitioners submits that the double storey building of Defendant No.6-Petitioner No.4 is standing over Plot No.1365. Plot No.1381 is a road. Defendant No.6-Petitioner No.4 has been using the vacant land “P” as his access to his residence standing over Plot No.1365. But, the said vacant land “P” has been allotted to the Plaintiffs by the Commissioner. Thus, the access to the residence of Petitioner No.4 is going to be completely blocked. He, accordingly, raised an objection with regard to acceptance of Commissioner’s report, which was rejected vide impugned order under Annexure-6. Hence, this CMP has been filed.
4. Upon hearing learned counsel for the Petitioners and on perusal of the impugned order under Annexure-6, it appears that

Plot No.1381 (Road) is adjacent to Plot No.1365 allotted to the Defendant No.6-Petitioner No.4. Thus, learned trial Court came to a conclusion that Defendant No.4 has a direct access to Plot No.1381 (Road) from Plot No.1365 (allotted to the Defendant No.6-Petitioner No.4). It is, however, submitted by Mr. Mohanty, learned counsel for the Petitioners that the house standing over Plot No.1365 is a double storey building and its entrance is towards vacant land "P", which is being used by Defendant No.6-Petitioner No.4 as access to his residence. There is no door of the building of Petitioners towards Plot No.1381. Thus, if the vacant land "P" allotted to the Petitioner, they will suffer irreparable loss and will lose the only access to his residence.

5. Such a contention is not acceptable, as much as, such an objection was neither raised nor was suggested to the Commissioner at the time of his cross-examination. On the other hand, in the cross-examination, the Commissioner has categorically stated that the Petitioner has a direct access from Plot No.1365 to Plot No.1381 (Road), which is adjacent to the said plot.

6. In view of the above, I find no infirmity in the impugned order under Annexure-6.

7. Accordingly, this CMP being devoid of any merit stands dismissed.

8. Since the final decree proceeding is of the year, 1990, learned trial Court shall make an endeavour for early disposal of the same.

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

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