

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26022 of 2022

Manas Ranjan Patra ***Petitioner***
Mr. Santosh Kumar Samantaray, Advocate

-versus-

Kumari Swagatika Kanar ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
09.12.2022

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for setting aside order dated 27th July, 2022 (Annexure-6) passed by learned Judge, Family Court, Angul in CP No.30 of 2021, whereby an application filed by the Opposite Party to restore the petition to consider the issue of maintainability of the Civil Proceeding No.30 of 2021, has been dismissed.
3. Mr. Samantaray, learned counsel for the Petitioner submits that the CP has been filed under the provisions of Special Marriage Act to declare the marriage between the Petitioner and Opposite Party as well as the marriage certificate issued to be null and void. The Petitioner being summoned appeared and filed objection with regard to maintainability of the proceeding. Earlier Opposite Party had filed CP No.49 of 2021 before the said Court for the self-same cause of action. It is also submitted by Mr. Samantaray, learned counsel that the said CP might have been withdrawn in the meantime. The petition challenging the maintainability of CP No.30 of 2021 was dismissed for default vide order dated 16th March, 2022

(Annexure-4). Hence, an application for restoration of the same was filed on 28th June, 2022 (Annexure-5), which was rejected, vide the impugned order under Annexure-6. This writ petition has been filed assailing the said order.

4. In view of the fact that the maintainability of the civil proceeding would require factual adjudication by adducing evidence in the matter, I am not inclined to entertain the writ petition. Hence, the writ petition is dismissed. However, dismissal of the writ petition shall not preclude the Petitioner to raise the issue, if the same is permissible under law.

(K.R. Mohapatra)
Judge

s.s.satapathy

