

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No. No.185 of 2021

Khirod Kumar Ota

..... Petitioner

Mr. Gurudutta Kar, Advocate

-versus-

Asish Kumar Dibedi

.... Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

Order No.

25.11.2022

1. This matter is taken up through Hybrid mode.
2. Although the matter is listed for removal of defect, but on consent of Mr. Kar, learned counsel for the Petitioner, the matter is taken up on merit ignoring the defect pointed out by the S.R.
3. In this petition, the Petitioner seeks review of order dated 1st September, 2021 (Annexure-8), whereby this Court dismissed CMP No.291 of 2020.
4. It is submitted by Mr. Kar, learned counsel for the Petitioner that the suit land is the joint family property and it has been recorded as such in Khata No.163 of Major Settlement ROR. One of the co-sharers, namely, Pitambar Ota sold the land to Opposite Party No.1, who in turn sold the same to Abanikanta Rana and Ratikanta Rana without knowledge of the Petitioner. When the subsequent purchasers came to the suit land for demarcation, the Petitioner came to know about the same and filed the suit for declaration and permanent injunction. It is his submission that although one of the co-sharers, namely, Pitambar Ota has clandestinely sold the land in question to

Opposite Party No.1, the Petitioner and other co-sharers are in possession over the same by exercising their right, title and interest over the joint family property. These material facts could not be brought to the notice of this Court at the time of adjudication of CMP No.291 of 2020. Thus, conclusion arrived at by this Court is an apparent error on the face of the order, which is sought to be reviewed.

5. On consideration of the submission made by learned counsel for the Petitioner and on perusal of the impugned order, it appears that this Court has omitted to record that Pitambar Ota had sold a portion of the suit property to Asish Kumar Dibedi- Opposite Party No.1. But, it is rightly observed that said Opposite Party No.1 has sold the property to Abanikanta Rana and Ratikanta Rana. Omission to record transfer of property by one of the co-sharers does not in any manner affect the merit of the order sought to be reviewed. Further, on perusal of record, it appears that the land Abanikanta and Ratikanta purchased have already been mutated in their name. It also appears that said Abanikanta Rana and Ratikanta Rana were Respondent Nos.3 and 4 in the appeal, but they were not impleaded as parties to the CMP, against whom injunction was sought for. As such, taking into consideration the same, the CMP was dismissed vide order dated 1st September, 2021. This Court does not find any apparent error in the order sought to be reviewed.

6. Accordingly, the review petition being devoid of any merit stands dismissed. It is, however, observed that the Petitioner may move the learned trial Court for early disposal of the suit stating the reason thereof and in that event, learned trial

Court may consider such application taking note of age of the Petitioner.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy

