

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 990 of 2022

Sanjaya Kumar Mohanty

Petitioner

Mr. Ajit Chandra Mohapatra, Advocate

-versus-

***Nrusingha Chandra Acharya and
others***

.... ***Opp. Parties***

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

**ORDER
20.10.2022**

Order No.

1. This matter is taken up through hybrid mode.
2. Petitioner, in this CMP seeks to assail the order dated 21st September, 2022 (Annexure-1) passed by learned Senior Civil Judge, Salipur in CS No.61 of 2019, whereby an application filed by the Defendant/ Petitioner under Section 10 CPC has been rejected.
3. Mr. Mohapatra, learned counsel submits that Defendant/ Petitioner along with one Ajay Mohanty has filed Consolidation Revision No.119 of 2019 before Commissioner, Consolidation, Odisha, Cuttack under Section 37 (1) of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (for short, 'OCH&PFL Act'). The relief claimed in the said revision is also the relief claimed by the Plaintiff in CS No.61 of 2019, i.e., to declare right, title and interest over a portion of Plot No.116 more fully described in Schedule 'C' of the plaint.
4. In course of hearing, Mr. Mohapatra, learned counsel for the Petitioner submits that when the matter is sub-judice before Consolidation Authority, no relief capable of being granted by

the Consolidation Authority can be entertained by the Civil Court. He, therefore, submits that interest of justice will be best served if an application is filed under Section 4(4) of the OCH&PFL Act before learned Civil Court and prays for a direction may be made to learned trial Court to adjudicate the petition under Section 4(4) of the OCH&PFL Act without being influenced by the observations made in order under Annexure-1.

5. Considering the submission made by learned counsel for the Petitioner, this Court, without expressing any opinion on the merit of the case of the Petitioner, disposes of the CMP with an observation that in the event an application under Section 4(4) of the OCH&PFL Act is filed within two weeks hence along with certified copy of this order, learned trial Court shall do well to consider the same in accordance with law without being influenced by the order passed in Civil Suit No.61 of 2019 under Annexure-1.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge