

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.551 of 2021

K.Prabha @ V.Pravabati

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Petitioner(s)

Mr.S.Mantry, Advocate

- Versus-

***The Secretary to Government of
Odisha, General Administration
Deptt. & Ors.***

***Opposite parties
Mr.S.P.Panda, AGA***

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
10.01.2022**

**Order No.
04**

1. This matter is taken up through Video Conferencing mode.
2. Heard learned counsel appearing for the parties.
3. Undisputedly an ex-parte order of dismissal involving a suit through CMA Mo.256 of 2004 has been allowed by recalling of the ex-parte decree and providing opportunity to the parties, but for adjudication of the dispute involved therein is on contest and such order being preferred in an appeal, appeal appears to have been rightly dismissed under Annexure-5.
4. For the impugned order involves a scope for deciding of suit on contest of the parties and as law never approves disposal of suit on such nature of ex-party decree. Keeping in view that there is scope for the parties to decide their matter on contest and the party aggrieved being a participator, there is no likelihood to be prejudice to him in such contest, this Court is not inclined to interfere in the impugned order. Certain grounds raised herein on the maintainability for such development taken

place, for the opinion of this Court all such grounds can very well be agitated and adjudicated in the trial proceeding, petitioner, if so advised, may do so.

5. The CMP stands dismissed, but however, with the observation made hereinabove.

6. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout copy of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 & 515 dated 7th January, 2022.

Sks



(BISWANATH RATH)
JUDGE