

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 1010 OF 2022

Tapaswini Parida @ Chhotray @ ***Petitioner***
Rashmi @ Puppy

Mr. Bijaya Kumar Behera, Advocate
-versus-

Mr. Biswadarshi Emanta Kumar ***Opp. Party***
Chhotray

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
20.10.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 5th September, 2022 (Annexure-4) passed by learned District Judge, Nuapada in MAT Case No.8/10 of 2012-14., whereby an application filed by the Petitioner to implead her daughter as a party to the proceeding has been rejected.
3. Mr. Behera, learned counsel submits that the Defendant-Wife is the Petitioner in this CMP. The Opposite Party-Husband has filed the aforesaid MAT Case for dissolution of marriage by a decree of divorce. He further submits that out of wedlock of the Petitioner and Opposite Party, they were blessed with a daughter on 15th December, 2000. She has completed her B.Sc from Mahamaya Degree College, Nuapada. The present Petitioner has taken all care of the daughter and the Opposite Party has not contributed a single pie towards maintenance of

the daughter. Thus, her presence is necessary for adjudication of the case for maintenance and for permanent alimony. Learned District Judge without considering the same and being swayed away by the submission made by learned counsel for the Opposite Party-Husband, rejected such petition. Hence, this CMP has been filed.

4. Considering the submission of Mr. Behera, learned counsel for the Petitioner and on perusal of the record, it appears that the proceeding has been filed under Section 13(1) of the Hindu Marriage Act, 1955. Since it is a suit/proceeding for dissolution of marriage, presence of the daughter is not necessary. Permanent alimony can be determined in absence of the daughter, born out of wedlock of the Opposite Party and Petitioner. Hence, she is neither a necessary nor a proper party to the MAT Case. Thus, learned District Judge, Nuapada has committed no error in rejecting the application under Order 1 Rule 10 C.P.C.

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

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

(K.R. Mohapatra)
Judge