

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1070 of 2022

Ganeshram Patel

....

Petitioner

Mr. Surya Narayan Satapathy, Advocate

-versus-

State of Odisha and another

....

Opp. Parties

Mr. Dillip Kumar Mishra,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

22.12.2022

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-3) passed by learned Civil Judge (Junior Division), Jharsuguda in CS No.82 of 2020, whereby an application filed by the Plaintiff/Petitioner under Order XXVI Rule 9 CPC has been rejected.
3. On perusal of record, it appears that trial of the suit has not yet commenced. Hence, this Court is of the considered opinion that when the Petitioner has not made any endeavour to prove his case by leading evidence, allowing petition under Order XXVI Rule 9 CPC at this stage will amount to procure evidence on his behalf, which is not permissible in law.
4. In that view of the matter, the CMP is disposed of without interfering in the impugned order, with an observation that the Petitioner, if so advised, may seek for such relief at the closure of the evidence, if at all the same is required.

s.s.satapathy

(K.R. Mohapatra)
Judge