

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.603 OF 2021

Bikram Keshari Jena & anr. ***Petitioners***

Mr.H.N.Mohapatra, Adv.

-versus-

Kunjalata Jena & ors. ***Opposite Parties***

Mr.P.K.Rath, Adv. for O.Ps.5 to 7

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
12.1.2022**

**Order
No.**

04.

1. This matter is taken up through video conference mode.
2. Heard learned counsel for the Parties.
3. The CMP involves a challenge to the refusal of Application under Order 1 Rule 10 of C.P.C. by the lower appellate court in F.A.O. No.41/2021.
4. Mr.Mohapatra, learned counsel for the Petitioners on the premises that there is likelihood of collusion between the Parties involving F.A.O. No.41/2021 involved sought intervention in the Appeal at least to assist the Court appropriately.
5. It is only on this ground, the impugned order is contested. This Court finds, there is already an issue decided but however pending consideration of the First Appellate Court in the first round of litigation being decided pending in the F.A.O., there was no allegation of collusion between the Parties. For there being no such foundation, this Court is not satisfied with the ground raised herein.

Further looking to the nature of the Application decided, this Court observes, in the event these Petitioners being the third party intervenors and not made parties in such legal process, any order likely to be passed in such legal process cannot bind the non-party. It is in this view of the matter and looking to the observations of the trial court, this Court also finds, there is no infirmity in deciding such Application requiring interference in the same in exercise of power under Article 227 of the Constitution of India.

6. The CMP thus stands dismissed.

5. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the Parties may utilize a printout 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, modified by Notice No.4798 dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Biswanath Rath)
Judge

M.K.Rout