

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1082 of 2022

Abdul Sakur and another ***Petitioners***
Ajit Kumar Tripathy, Advocate

-versus-

Sk. Aptauddin and others ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
13.12.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioners in this CMP seek to assail the order dated 29th May, 2022 (Annexure-4) passed by learned Civil Judge (Senior Division), Chandikhole, whereby an application filed by the Plaintiffs to direct the Defendants to produce the documents relied upon by them, has been rejected.
3. Mr. Tripathy, learned counsel for the Petitioners submits that in view of Order 13 Rule 1 CPC, parties to the suit are required to submit their documents before settlement of issues. But the Defendants although filed written statement did not produce the documents relied upon by them. He also refers to Order X Rule 1 CPC and submits that the Court in order to settle the issues must hear the parties. For effective hearing on settlement of issues, the Court should compel the Defendant to produce the documents relied upon by him. Although the provisions as aforesaid were brought to the notice of learned trial Court, but he did not consider the same and reject the petition holding that the Defendants, if so advised may file the documents to be relied upon even after settlement of issues. It is

his submission that unless the documents relied upon by the Defendants are filed along with the written statement or in any case before settlement of issues, there cannot be any fair trial. He, therefore, prays for setting aside the impugned order and to direct the Defendants to produce document they have relied upon in the written statement.

4. Upon hearing learned counsel for the Petitioner, this Court is of the considered opinion that if a party does not file any document in support of his pleading then he will face consequence. As observed by learned trial Court, Defendants, if so advised, may also seek leave to file documents in support of their case in view of Order VIII Rule 1-A(3) CPC even after settlement of the issues. In any event, the Plaintiff cannot pray to the Court to compel the Defendants to file a particular document. In that view of the matter, I find no infirmity in the impugned order.

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

(K.R. Mohapatra)
Judge

s.s.satapathy