

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 620 OF 2021

Natabara Pradhan and others* *Petitioners

Mr. Prafulla Chandra Acharya, Advocate

-versus-

Promod Kumar Pradhan and another* *Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

24.11.2022

Order No.

CMP NO. 620 OF 2021
& I.A. No. 696 of 2022

3.
 1. This matter is taken up through hybrid mode.
 2. This matter is listed for orders for extension of the interim order.
 3. In course of hearing, this Court feels that merit of the CMP has to be gone into. Hence, on consent of learned counsel for the Petitioners, the CMP is taken up for final disposal.
 4. Order dated 24th September, 2021 (Annexure-4) passed by learned Civil Judge (Senior Division), Kendrapada in C.S. No.70 of 2015 is under challenge in this CMP, whereby an application filed under Order 1 Rule 10 C.P.C. by the Opposite Party No.1 has been allowed.
 5. Mr. Acharya, learned counsel submits that the Petitioner No.1 is the Defendant No.1 in the suit. The suit has been filed by one of the sons of Petitioner No.1, namely, Opposite Party No.2 (Abhiram Pradhan), for a declaration that the sale deed executed by the present Petitioners to be void and not binding on him. The Opposite Party No.1, namely, Pramod Kumar Pradhan, who is one

of the sons of the Petitioner No.1 and was unheard of for last twenty-two years, suddenly appeared and filed an application under Order 1 Rule 10 C.P.C. to be impleaded as party to the suit. The said application was allowed without taking note of the fact that the suit property was the exclusively property of Defendant No.1-Petitioner No.1 and the Opposite Party No.1 has no semblance of the interest in the said property. As such, the impugned order under Annexure-4 is not sustainable in the eyes of law. Hence, this CMP has been filed with the aforesaid prayer.

6. Upon hearing learned counsel for the Petitioners and on perusal of the record, it appears that the Plaintiff-Opposite Party No.2 has filed the suit impleading the Petitioner No.1 as Defendant No.1 and purchasers as Defendant Nos.2 to 4. The suit has been filed to declare the sale deed to be null and void. The Plaintiff-Opposite Party No.2 being the son of Defendant No.1-Petitioner No.1, his right over the suit property may be affected, if the suit is decreed. As such, learned trial Court has committed no error in allowing the application under Order 1 Rule 10 C.P.C. Since the suit is of the year, 2015, learned trial Court shall make an endeavour for early disposal of the suit in accordance with law, giving opportunity of hearing to the parties concerned.

7. With the aforesaid observation and direction, the I.A. and CMP are disposed of.

8. The interim order dated 7th December, 2021 passed in I.A. No.655 of 2021 stands vacated.

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

(K.R. Mohapatra)
Judge