

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35558 of 2020

Oriental Insurance Company Ltd. ***Petitioner***
Mr. S.K. Rout, Advocate

-versus-

Rasmita Behera and another ***Opposite Parties***

Mr. P.K. Mishra, Advocate for O.P.
No.1

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.11.2022

Order No.

- 16.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioner and learned counsel for the Opposite Parties. Perused the record.
 3. The present writ petition has been filed by the petitioner challenging the order dated 13.03.2020 under Annexure-7 and further prays for a direction to the Tribunal to send the Medico Legal Case report to the handwriting expert to ascertain the genuineness of the disputed signature or in the alternative, the matter may kindly be handed over to the Crime Branch for detail investigation of the case.
 4. Learned counsel for the petitioner submits that the witnesses

in question had earlier questioned a statement under her signature. During trial she denied to admit her own signature. On such context, learned counsel for the petitioner filed an application to send Medico legal case report Signature to the handwriting experts to verify as to whether such signature is the signature of the particular witness or not. Learned Tribunal vide order dated 1303.2020 rejected the prayer of the Insurance Company to send the Medico legal case report to the handwriting expert on the ground that the I.O. has already submitted the charge-sheet.

5. Learned counsel for the opposite parties submits that it is open for the petitioner company to lead independent evidence to prove facts which has been alleged to have been forged and that the trial court shall decide the case after examining the materials placed before the Tribunal. Therefore, the petitioner is in no way prejudiced.

6. Having heard learned counsels for the parties, this Court is of the considered opinion that it is open to the trial court to decide as to which are the documents required to be sent to the handwriting expert for examination. In view of the above, this Court is not inclined to quash the impugned order. However, this Court is also of the considered view that the Tribunal should not have made any

observations in the impugned order dated 13.03.2020.

7. Considering the submissions made by the respective parties, this Court hereby expunges the observations which are not relevant to decide the application filed by the Insurance Company for sending the Medico legal case report to the handwriting experts. Further, liberty is granted to the Insurance Company to prove the facts by adducing evidence through independent witness during the course of the trial and the Tribunal is directed to consider the case on its own merit on the basis of materials placed before it without being influenced by the observations made in the impugned order.

8. On the prayer of learned counsel for the both the sides, the trial court is directed to make all endeavors to dispose of the case as expeditiously as possible preferably within a period of four months.

9. With the aforesaid observation/direction, the writ petition stands disposed of.

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

(A.K. Mohapatra)
Judge