

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CMP No. 1124 OF 2022**

***Srikanta Kumar Sahoo @ Ram*** .... ***Petitioner***

Mr. Ajit Ch Mohapatra, Advocate

*-versus-*

***Bijay Kumar Sahoo and others*** .... ***Opp. Parties***

**CORAM:  
JUSTICE K.R. MOHAPATRA**

**ORDER  
28.11.2022**

**Order No.**

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 11<sup>th</sup> October, 2022 (Annexure-2) passed by learned 1<sup>st</sup> Additional Senior Civil Judge, Cuttack in C.S. No.738 of 2018, whereby an application under Order VI Rule 17 C.P.C. read with Order 1 Rule 10 C.P.C. has been rejected.
3. In course of hearing, Mr. Mohapatra, learned counsel for the Petitioner submits that a consolidation revision in respect of Schedule-B property is pending before the Commissioner under Section 37 of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972. Thus, he fairly concedes that amendment of the prayer with regard to declaration of exclusive possession of the Petitioner over the suit schedule-B property may not be maintainable. He, however, submits that interest of justice will be best served, if the Plaintiff-Petitioner files a properly constituted petition for amendment along with impletion of parties and in that event a direction may be made to learned trial Court to consider the

same in accordance with law without being influenced by the observation made in the order impugned herein. He, therefore, prays for withdrawal of the CMP to enable the Plaintiff-Petitioner to file a properly constituted petition for amendment.

4. In view of such submission, the CMP is disposed of as withdrawn with an observation that in the event, the Petitioner files a properly constituted petition under Order VI Rule 17 C.P.C. before learned 1<sup>st</sup> Additional Senior Civil Judge, Cuttack within a period of fifteen days hence, the same shall be considered in accordance with law without being influenced by any observation made in the impugned order under Annexure-2.

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

**(K.R. Mohapatra)**  
**Judge**

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