

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.1153 of 2022

Jeeta @ Lagnajita Mohanty ***Petitioner***
Mr. Sumit Kumar Mohanty, Advocate
-versus-
Parsuram Routray and others ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
25.11.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this CMP seeks to assail the order dated 9th November, 2021 (Annexure-4) by which the evidence from the side of Defendant No.1(a) was closed. He also assails the order dated 27th October, 2022 (Annexure-6), whereby learned Civil Judge (Senior Division), Bhubaneswar dismissed the application to recall the order and to permit the Petitioner to adduce evidence in the matter.
3. It is submitted by Mr. Mohanty, learned counsel for the Petitioner that after commencement of trial, Defendant No.1 expired in the year 2017 and the Petitioner has been substituted as Defendant No.1(a) in his place. After being substituted, Defendant No.1(a) filed additional written statement on 9th November, 2021. Accordingly, the matter was posted to 9th November, 2021. As both the Plaintiff and Defendant No.1(a) filed time petition, learned trial Court rejecting both the petitions closed the evidence from both sides and posted the matter to 16th November, 2021 for argument. However, Defendant No.1(a)

filed an application to recall the order dated 9th November, 2021, which was posted for objection and hearing on 18th November, 2021. On 18th November, 2021, she filed a petition for further cross-examination of PW-1, which was allowed on 7th December, 2021. But Defendant No.1(a) was not allowed to lead evidence in the suit for which she filed an application on 16th November, 2021 to recall order dated 9th November, 2021 and to allow time to adduce evidence. Said application was rejected on the ground that the Petitioner [Defendant No.1(a)] was given ample opportunities to which she did not avail. Taking into consideration that the suit is of the year 1999, rejected the petition. Hence, this CMP has been filed.

4. Upon hearing learned counsel for the Petitioner and on perusal of record, it appears that after granting several adjournments, the matter was post to 27th October, 2021 to adduce evidence on behalf of Defendant No.1(a). On the said date, the Petitioner filed an application for adjournment for which the matter was posted to 1st November, 2021 for the said purpose as last chance. On 1st November, 2021 also she was given further opportunity to adduce evidence on 9th November, 2021 but of no avail. As usual, the Petitioner also filed an application for adjournment on 9th November, 2021, which was rejected and the matter was posted for argument. However, considering the application of the Petitioner, she has already been allowed to further cross-examine PW-1 by recalling the witness. In that view of the matter, it appears that learned trial Court has given ample opportunities to the Petitioner to adduce evidence. Since suit is of the year 1999 and the Petitioner has been given sufficient

opportunity to adduce evidence, I find no infirmity in the impugned order.

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

(K.R. Mohapatra)
Judge

s.s.satapathy

