

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1163 of 2022

Jharana Dalei

....

Petitioner

Mr. A.K.Pradhan, Advocate
on behalf of Mr. Sambeet Pattanayak, Advocate

-versus-

Mamata Sahoo and another

....

Opp. Parties

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

**ORDER
14.12.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this CMP seeks to assail the order dated 6th August, 2022 (Annexure-5) passed by learned Civil Judge (Senior Division), Nimapara in CS No.51 of 2019, whereby an application filed by the Petitioner under Order 1 Rule 10 CPC to be impleaded as party to the suit has been rejected.
3. It is submitted by learned counsel that the Petitioner has purchased a portion of the suit plot. It is his submission tht the Plaintiff has purchased Ac.0.11 ½ decimal out of Ac.0.23 decimal, whereas the Petitioner has purchased Ac.0.06 decimal of land from the self-same plot. Hence, there is every likelihood that her right over the suit land may be affected while adjudicating the suit. Learned trial Court, without realizing the same, rejected the petition filed under Order 1 Rule 10 CPC. Hence, this CMP has been filed.
4. Taking note of the submission made by learned counsel for the Petitioner and on perusal of the impugned order, it appears that the Plaintiff has purchased Ac.0.11 ½ decimal out

of Ac.0.23 decimal from the suit plot No.469/5357 from the southern side, whereas the Petitioner purchased Ac.0.06 decimal of land of the suit plot from northern side. It also appears that after purchase, the Plaintiff has mutated the land in her name and converted it to 'gharabari' in OLR Case No.190 of 2009. Hence, this Court finds that the intervener has purchased distinctly separate portion of separate property along from the same suit Plot No.469/5357. In view of the decision in the case of *Sudhamayee Pattanaik and others Vs. Bibhu Prasad Sahoo and others*, reported in 2022 SCC Online (SC) 1234, the Plaintiff cannot be compelled litigate with a person against his/her wish. It is of course at the risk of the Plaintiff. In that view of the matter, this Court finds that learned trial Court has committed no error in dismissing the petition filed under Order 1 Rule 10 CPC.

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

(K.R. Mohapatra)
Judge

s.s.satapathy