

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.1168 OF 2022

Shamima Begum

....

Petitioner

Miss Deepali Mahapatra, Advocate

-versus-

Sk. Afsar and others

....

Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

05.12.2022

Order No.

1. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 15th October, 2022 (Annexure-8) passed by learned Civil Judge (Senior Division), 1st Court, Cuttack in C.S. No. 124 of 2012 (F.D.), whereby the report of civil court commissioner has been accepted.
3. Miss Mahapatra, learned counsel for the Petitioner submits that it was the admitted case of the parties before learned Appellate Court that there is a common passage. Although preliminary decree does not reflect any passage, but learned first appellate Court has dealt with the same while deciding the appeal. Hence, learned trial Court while deputing the civil court commissioner ought to have issued a writ accordingly, so that common passage could have been carved out.
4. In course of argument, Miss Mahapatra, learned counsel for the Petitioner fairly concedes that no such prayer has been

made before learned trial Court at the time of issuance of writ. She, therefore, prays for withdrawal of CMP to file appropriate application before learned trial Court for redressal of grievance of the Petitioner.

5. In view of such submission, the CMP is disposed as withdrawn.

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

(K.R. Mohapatra)
Judge

bks

