

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRP No.11 Of 2021
(Through video conferencing mode)

Pawan Agarwal and others ... ***Petitioners***

Mr. B. Baug, Advocate

-versus-

Bishwambhar Diyal Agarwal and another ... ***Opposite Parties***

Mr. S.S.Rao, Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER
03.02.2022

Order No.

- 01.** 1. Mr. Baug, learned advocate appears on behalf of petitioner, who wants revision of order dated 17th September, 2021, by which trial Court rejected the compromise petition made by the parties under rule 3 in order XXIII, Code of Civil Procedure (CPC). He submits, the order is illegal and made with material irregularity. If it had been made recording the compromise, the suit would have been decreed and disposed of finally.
2. Mr. Rao, learned advocate appears on behalf of opposite parties, who are defendants in the suit. He submits, his clients joined in

the compromise petition and it is a good and lawful agreement of compromise.

3. It appears from the plaint that plaintiffs and defendants are two sets of father and son. They had entered into partnership business. The partnership acquired immovable properties. Opposite parties(defendants) retired from the partnership on 18th June, 2020 and there was reconstitution of the partnership, enabling it to carry on the business by two parties, being petitioners/plaintiffs. It is after this, petitioners claim, disputes arose regarding partition of the partnership on movable properties. Therefore, the suit and thereafter on agreement between parties, the compromise petition for partition of the immovable properties of the partnership.

4. By impugned order the compromise petition was rejected at the stage made and there was direction for filing written statement. The stage is soon after filing of the suit.

5. Having perused, inter alia, statements in the plaint and impugned order, it is clear that the trial Court was not satisfied by the claim for partition made after reconstitution of the partnership. However, no opportunity was given to the parties to explain the situation. In the circumstances, the compromise petition is restored to

the trial Court on setting aside impugned order. The parties are directed to produce before the trial Court the reconstitution of the partnership by deed dated 18th June, 2020. The parties will have to satisfy the said Court that the reconstituted partnership was duly registered with the Registrar of Firms. That the reconstituted partnership was made keeping partition of partnership properties outstanding, for it to be resolved latter. The Court will revisit the matter upon allowing the parties to make their submissions on further disclosures or otherwise and thereafter deal with the compromise petition, in accordance with law.

6. The petition is disposed of.

(Arindam Sinha)
Judge

Prasant