

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) NO. 38108 OF 2021

Laxmi Nandan Abhay *Petitioner*
Mr. Rabindra Kumar Prusty,
Advocate
-versus-
Swati Anand *Opp. Parties*

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
22.02.2022

2. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 1st October, 2021 (Annexure-5) passed by learned Judge, Family Court, Cuttack in CMA No.09 of 2017 (arising out of C.P. No.668 of 2012).
3. It is submitted by Mr. Prusty, learned counsel that the Petitioner had married to the Opposite Party, which was dissolved by an order of divorce passed by learned Judge, Family Court, Cuttack in C.P. No.668 of 2012. Although the order was passed *ex parte*, the Opposite Party had knowledge of the same. After the appeal period is over, the Petitioner has already remarried and has been blessed with a child. At this juncture, the Opposite Party filed an application under Order IX Rule 13 C.P.C. (CMA No.09 of 2017) to set aside the *ex parte* order of divorce dated 22nd November, 2013 passed in C.P. No.668 of 2012. The Petitioner on receiving the notice appeared and filed an application under Order VII Rule 11 C.P.C. to reject the said application in CMA No.09 of

2017 holding it to be not maintainable. That petition was rejected vide order dated 1st October, 2021. Assailing the same, this writ petition has been filed.

4. In course of hearing, Mr. Prusty, learned counsel for the Petitioner submits that interest of justice will be best served, if the Petitioner contests the petition filed under Order IX Rule 13 C.P.C. in CMA No.09 of 2017.

5. Considering such submission, this writ petition is disposed of observing that it is open to the Petitioner to contest the petition filed under Order IX Rule 13 C.P.C. in CMA No.09 of 2017. Learned Judge, Family Court, Cuttack may also make an endeavour for early disposal of the petition under Order IX Rule 13 C.P.C. for the interest of both the parties.

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

(K.R. Mohapatra)
Judge

bks