

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.714 of 2021

Smitarani Pradhan and others

....

Petitioners

Mr.B.P.Satapathy, Advocate

-versus-

Uma Shankar Sahu & another

....

Opp. Parties

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.01.2022

Order No.

3. This matter is taken up through Video Conferencing mode.
2. Challenging the order dated 6th September, 2021 passed by the learned Senior Civil Judge, Deogarh in C.S.No.31 of 2007 thereby dropping the suit has been assailed in the present CMP application.
3. Learned counsel appearing for the Petitioner submits that the learned Court below has dropped the suit on the ground that the writ application which was pending before this Court bearing W.P.(C) No.1244 of 2007 has been disposed on 5th March, 2021. Therefore, the cause of action for the suit does not survive for continuance of Civil Suit (Money Suit) No.31 of 2007 for further adjudication. He further submits that while dropping such a suit vide order dated 6th September, 2021, the learned Court has not given an opportunity to the Petitioner. He also submits that after disposal of the writ application the Odisha State Financial Corporation has issued another notice dated 11th August, 2021 demanding a sum of Rs.3,18,61,853.00.
4. Having heard learned counsel for the Petitioner, this Court is

of the considered view that nothing survives in the Civil Suit (Money Suit) No.31 of 2007 for adjudication. Rightly the same has been dropped. The letter dated 11th August, 2021 under Annexure-6 which was issued subsequently gives rise to a fresh cause of action. Therefore, it is open for the Petitioner to challenge the same before a competent forum.

5. In view of the facts and circumstances narrated hereinabove, this Court is not inclined to interfere with the impugned order. However, it is observed that it is open for the Petitioner to assail the letter dated 11th August, 2021 by filing an appropriate petition/application before the competent court, if he so desires.

6. With the aforesaid observation, the CMP application stands disposed of.

7. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Court's Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

RKS

(**A.K. Mohapatra**)
Judge