

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1215 of 2022

Sailabala Swain and others* *Petitioner

Mr. Sarat Kumar Achary, Advocate

-versus-

Jyostnamayee Swain and others* *Opp. Parties

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

**ORDER
19.12.2022**

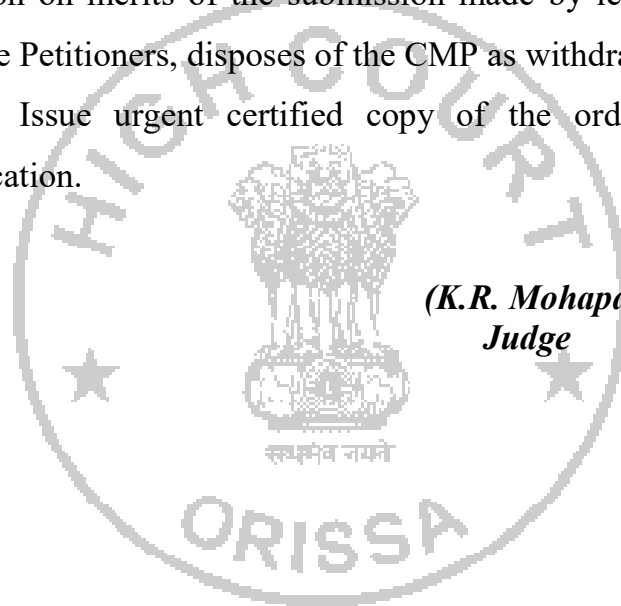
Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioners in this CMP seek to assail the order dated 23rd June, 2022 (Annexure-2) passed by learned Senior Civil Judge (LR & LTV), Nayagarh passed in CS No.32 of 2003, whereby an application filed by the Plaintiffs/Opposite Parties under Order VI Rule 17 CPC has been allowed.
3. Learned counsel submits that Petitioners are Defendant Nos.2(a) to (e) before the learned trial Court. They were not given any opportunity of hearing to file objection to the petition under Order VI Rule 17 CPC. On the date the matter was posted for filing of objection, though the Petitioners sought for time, but learned trial Court rejecting the same heard the petition under Order VI Rule 17 CPC on merit and passed the impugned order. He, therefore prays for setting aside of the impugned order and remit the matter to learned trial Court to afford them opportunity of hearing by filing objection to the petition under Order VI Rule 17 CPC.
4. On perusal of the impugned order under Annexure-2, it does not appear that the Petitioners had in fact sought for any

time to file objection to the petition under Order VI Rule 17 CPC. However, at this stage, learned counsel for the Petitioners submits that interest of justice will be best served if the Petitioners file an application for recall of the order and provide them opportunity to file objection to the petition under Order VI Rule 17 CPC and in that event, learned trial Court can pass orders referring to materials available before him. He, therefore, prays for withdrawn of the CMP.

5. In view of the above, this Court, without expressing any opinion on merits of the submission made by learned counsel for the Petitioners, disposes of the CMP as withdrawn.

Issue urgent certified copy of the order on proper application.



(K.R. Mohapatra)
Judge