

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 1282 OF 2022

Hrusikesh Meher

....

Petitioner

Mr. Tilochan Nanda, Advocate

-versus-

Liluram Agrawal and another

....

Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.12.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Order dated 9th September, 2022 (Annexure-1) passed by learned Civil Judge (Senior Division), Kantabanji in C.S. No.37 of 2021 is under challenge in this CMP, whereby an application to admit the original building plan approved and issued by the Junior Engineer, NAC, Kantabnji in evidence has been rejected.
3. Mr. Nanda, learned counsel for the Petitioner submits that the Plaintiff is the Petitioner in this CMP. The suit has been filed for declaration of right, title and interest. The suit property has been purchased by the Plaintiff and approved building plan in respect of the suit property has been issued by the Assistant Engineer, NAC, Kantabanji. During examination of P.W.1, the Plaintiff intended to admit the aforesaid document in evidence and accordingly, filed an application for leave of the Court. The said application was rejected holding that the Petitioner has neither relied upon the said document nor produced at the

earliest before settlement of issues. He further submits that a document can be admitted in evidence with leave of the Court even after settlement of the issues and that too when the witness is being examined. Learned trial Court failed to appreciate the same and rejected the application for leave to admit the aforesaid document in evidence.

4. Upon hearing learned counsel for the Petitioner, this Court finds that the aforesaid document was intended to be admitted in evidence after trial of the suit commenced. However, a document can be admitted in evidence with leave of the Court even after commencement of the hearing of the suit, if the same is necessary for adjudication of the case. Mr. Nanda, learned counsel for the Petitioner on a query made by this Court fairly concedes that no pleading with regard to the building plan approved by the Junior Engineer, NAC, Kantabanji has been made in the plaint. Thus, learned trial Court has committed no error in rejecting such application as the said document is not necessary for proper adjudication of the suit.

5. Hence, the CMP being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge

bks