

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMAPL NO.378 OF 2021

Srimati Jatan Dei

....

Petitioner

Mr. Trilochan Nanda, Advocate

-versus-

Bansidhar Moharana & Others

....

Opposite Parties,

CORAM:

MR. JUSTICE D.DASH

ORDER

14.07.2022

Order No.

- 02.
1. This matter is taken up through hybrid arrangement (physical/ virtual) mode.
 2. The present Petitioner as the Appellant No.2 along with one Nodhi Pradhan had filed the Second Appeal No.11 of 1995. In the Second Appeal, the judgment and decree passed by the learned Civil Judge (Sr. Division), Khurda in Title Appeal No.12 of 1989 had been assailed. This Petitioner with Nodhi Pradhan as the Plaintiffs having filed Title Suit No.35 of 1987, the same stood dismissed. So, being the unsuccessful Plaintiffs; they had carried the First Appeal.
 3. The Second Appeal had been admitted on 11.09.1995 to answer the substantial questions of law as stated in the order.

The Applications under consideration are with the prayers to restore the Second Appeal which has been dismissed by order dated 24.04.2018 by condoning delay in filing the Application for restoration of the Appeal.

4. Heard learned Counsel for the Appellant. I have also gone through the averments taken in the Applications and the orders passed in Second Appeal No.11 of 1995.

The Second Appeal had been admitted on 11.09.1995 by order dated 14.07.2003. Therefore, for non-compliance of peremptory order passed on 32.04.2003, the Appeal stood dismissed in so far as Respondent No.2(a), 2(b) and 4 (b) are concerned. This order continued to hold the field till 23.04.2018.

On 24.04.2018, this Court having found the decree under challenge to be joint and indivisible, in view of the dismissal of the Appeal as against Respondent Nos.2(a), 2(b) and 4(b), has passed an order to the effect that the Appeal cannot proceed against the rest of the Respondent. Accordingly, the Appeal has been dismissed.

4. In view of the aforesaid, when the dismissal of the Appeal is referable to order dated 14.07.2003, the prayers as advanced in the Applications under consideration are found to be misconceived. Accordingly this Court is not inclined to entertain the Applications for consideration of the prayers as advanced therein. The prayers made therein are thus found to be devoid of merit.

5. Accordingly, the CMAPL stands dismissed. No order as to cost.

**(D. Dash),
Judge.**