

IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. No.100 of 2011

***Mohammad Mujtoba Khan and
others***

Appellants

Mr. K.K. Rath, Advocate

-versus-

***The Secretary, Board of Wakf,
Odisha, Cuttack Pathan Mahala
Mosque and others***

.... Respondents

*Mr. Md. Fayaz, Advocate for
Respondent No.1*

*Mr. B. Baug, Advocate for Respondent
Nos.2 and 3*

*Mr. Debasish Samal, Advocate for
Intervener*

**CORAM:
MR. JUSTICE A.C. BEHERA**

**ORDER
26.09.2023**

Order No.

- 12.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This 2nd appeal was admitted on 06.04.2012 and thereafter, direction was given to the appellants to take steps to issuance of notice on the respondents. Accordingly, on the basis of steps taken on behalf of the appellants, out of five respondents, Respondent Nos.1 made its appearance through the learned counsel Mr. Md. Fayaz. Respondent Nos.2, and 3 made their appearance through the learned counsel Mr.B. Baug.
 3. Respondent No.5 has not made appearance. It does not appear from the record, whether the notice has been made sufficient or not against the Respondent No.5. There is also no material in the record as yet to show about the service of summon on Respondent No.4.

4. Therefore, learned counsel for the appellants are directed to submit fresh requisites for issuance of notice to the Respondent Nos.4 and 5 within a week.

5. List this matter on 8th of November, 2023.

(A.C. Behera)

Judge

Misc. Case Nos.403, 404 and 405 of 2014

13. 6. Heard.

7. These Misc. Cases have been filed on behalf of the appellants to substitute the LRs of the deceased Appellant No.2 under order-22, Rule-3, Order-22, Rule-9 of the C.P.C. and Section 5 of the Limitation Act praying for substituting the LRS of the deceased Appellant No.2 after setting aside the abatement and condoning the delay.

8. Today, learned counsel for the appellant served a copy of the Misc. Case on the learned counsel for the Respondent Nos.2 and 3, but he has not served the copy on the learned counsel for the Respondent No.1. The learned counsel for the appellant is directed to serve the copy of the above three Misc. Cases on the learned counsel for the Respondent No.1 within a week.

(A.C. Behera)

Judge

I.A. No.496 of 2018 & R.S.A. No.100 of 2011

14. 9. Heard.

10. This Interlocutory Application has been filed by the third party intervener praying for implemenation of third party intervener as Respondent Nos.2 and 3 after deletion of the names of Respondent

Nos.2 and 3 those, names are existing now.

11. According to the learned counsel for the third party intervener, they had prayed for their impletion on the ground that, they were the President and Secretary of the Managing Committed of Pathan Mohalla Masjid, Balasore.

12. The Interlocutory Application was filed by the third party interveners way back in the year 2018. But, today, there is no instruction from the third party interveners by their learned counsel, whether then, they (third party interveners) are interest to press their petition or not, for which, their leaned counsel prayed for some time to obtain instructions about the same from them.

13. List this matter after Puja Vacation for compliance above direction by the appellants and so also to submit about the instructions of the third party interveners, i.e., where they will press their petition for hearing or not.

Jagabandhu

