



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.1163 of 2025

Sudarsan Barik

.... ***Petitioner***
Mr. A.Tripathy, Advocate

-versus-

Prafulla Kumar Barik

.... ***Opposite Party***
Mr. B.K.Nayak, Advocate

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
20.11.2025

Order No.

06

1. Heard Mr. Tripathy, learned counsel for the Petitioner and Mr. Nayak, learned counsel for Opposite Party.
2. Present CMP is directed assailing order dated 19th July 2025 of learned Civil Judge (Senior Division), Odagaon passed in C.S. No.246 of 2023, wherein the prayer of the Defendant to adduce a witness beyond the list furnished by him in terms of Order 16 Rule 1A of the CPC has been refused.
3. It is submitted by the Defendant that the proposed witness is the Sarpanch, who is not ready to come to the Court without any summons being issued to him. On the other hand, Mr.Nayak, learned counsel for the Plaintiff (present O.P.) submits that though he has no objection for calling any such witness on the part of the Plaintiff, but since this particular witness is not named in the list furnished by the Defendant, and considering the



purpose of such witness to be examined as per the Defendant, the presence of said witness is not necessary. It is submitted on behalf of the Plaintiff that since other witnesses are there at the discretion of the Defendant to be examined for that particular purpose, the Trial Court has rightly rejected the prayer of the Defendant.

4. The suit is for partition and the purpose stated by the Defendant to examine this particular witness is to bring in evidence the fact of agreement arrived between the parties earlier in presence of the local gentries of the village including the Sarpanch. Therefore, considering the power of the Court as per Rule 1 & 2 of Order 16, no reason is seen to deny the Defendant to produce any such witness on his part only for the reason that he was not named in the list furnished by him. Accordingly, the prayer of the Defendant to examine Shri Bijan Paikray, present Sarpanch of Kural G.P. is allowed. Learned Trial Court is directed to fix a date suitably for his examination.

5. The CMP is accordingly disposed of.

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

(B.P. Routray)
Judge