



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1471 of 2025

Bali Kumbhar

.....

Petitioner

Represented by Adv. -
Tusar Kumar Mishra

-versus-

Agam Kumbhar

.....

Opposite Party

Represented by Adv. -
M/s Bitas Kumar Swain,
Manoj Raudia

CORAM:

MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

26.02.2026

Order No.

- 04.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioner as well as learned counsel appearing for all the Opposite Parties. Perused the CMP application as well as the prayer made therein.
 3. By filing the present CMP application under Article 227 of the Constitution of India, the Plaintiffs in C.S. No.305 of 2024 has approached this Court challenging the order dated 23.07.2025 passed in Civil Revision No.5 of 2025 by the learned 2nd Additional District Judge, (Senior Division), Rourkela thereby confirming order dated 14.02.2025 passed by learned Civil Judge (Senior Division), Rourkela in Civil Suit No.305 of 2024 thereby rejecting the Plaintiffs' application under Order 23 Rule 3 of CPC with a prayer to draw a decree on the basis of the compromise arrived at between the Plaintiffs and the Defendant.
 4. Learned counsel for the Petitioner at the outset contended that



the property involved in the suit is basically a joint family property. He further contended that although Parties are related to each other and by virtue of an amicable settlement they have carved out their respective share and accordingly he filed an application under Order 23 Rule 3 of CPC to dispose of the suit on the basis of the compromise arrived at between the Parties. Learned counsel for the Petitioner further submitted that the defendant in the suit did not object to the application filed under Order 23 Rule 3 of CPC by the Plaintiffs. Therefore, it was alleged that there was unanimity among the Parties with regard to the factum of compromise as has been pleaded in the petition filed under Order 23 Rule 3 of CPC before the learned trial Court.

5. He further submitted that by virtue of the impugned order dated 14.02.2025 at Annexure-3, the learned trial Court disposed of the application under Order 23 Rule 3 of CPC by rejecting the prayer of the Petitioner on the ground that the Plaintiff has claimed the declaration of their title over their portion of the land on the basis of the RoR. It has been specifically observed that no title deed was produced before the learned trial Court to verify the ownership of the land. The learned trial Court has also observed that the RoR neither creates nor extinguishes title. Therefore, on the basis of the RoR only the compromise could not have been accepted. The learned trial Court has also come to conclusion that the compromise being in the nature of contract, has to adhere to the provisions of the Indian Contract Act. Since the compromise arrived at between the Parties was not in conformity with the provision of the Indian Contract Act, the Court is under no legal obligation to accept such compromise and to pass an under Order 23 Rule 3 of the CPC. On



such ground, the prayer of the Petitioner was rejected by the learned trial Court.

6. The impugned rejection order dated 14.02.2025 passed in Civil Suit No.305 of 2024 was assailed at the instance of the Petitioner before the revisional Court by filing Civil Revision No.5 of 2025. On perusal of the judgment of the learned 2nd Addl. District Judge, Rourkela dated 23.07.2025 under Annexure-4, it is observed that the revision petition was also dismissed thereby confirming the order passed by the learned trial Court on 14.02.2025. While disposing of the revision petition, the learned revisional Court by referring to the law laid down by this Court in **1993 (I) OLR 90** has held that the satisfaction of the Court means that the Court is required to verify as to whether the compromise is a genuine one and that the same is reduced to writing and signed by the Parties and above all such compromise is lawful and not opposed to the provisions of the Indian Contract Act. By applying the aforesaid yardstick, the learned revisional Court has come to a conclusion that the learned trial Court has not committed any illegality in rejecting the application of the Petitioner under Order 23 Rule 3 of the CPC.

7. While assailing the aforesaid two orders passed by the learned trial Court as well as the revisional Court, learned counsel for the Petitioner contended before this Court that it is not disputed by the Parties that the subject matter of dispute in the present suit is a ancestral granted property belonging to the family of the Plaintiffs as well as the Defendant. He further submitted that there exists absolutely no dispute with regard to the share allotted to each of the co-sharer, accordingly during the pendency of the suit it was decided by the Parties to resolve the dispute amicably and that on



the basis the compromise a decree be drawn by the learned trial Court so that each one of the co-sharers will have absolute right over their share of the land and there is no dispute in future among the co-sharers. Learned counsel appearing for the Opposite Party-Defendant on the other hand contended that he has no objection neither he has any objection to the compromise nor did he file any objection in the learned trial Court regarding the petition filed by the Plaintiffs under Order 23 Rule 3 of the CPC. He further submitted that all the co-sharers are aggregable to the compromise arrived at among the family members. Therefore, it was contended that there was no dispute with regard to the compromise arrived at among the co-sharers. He further submitted that the application filed under Order 23 Rule 3 of CPC is in furtherance of the above noted amicable settlement among the co-sharers and that in the event the same is accepted, such compromise would bring an end to the entire dispute among the co-sharers. He also submitted that the learned trial Court as well as the revisional Court instead of accepting the settlement among the Parties, rejected the prayer of the Petitioner in their application under Order 23 Rule 3 of the CPC. In such view of the matter, learned counsel appearing for the Opposite Party also prayed for setting aside of the impugned order at Annexures-3 and 4 to the present CMP application.

8. Having heard the learned counsels appearing for the respective Parties, on a careful examination of the background fact and on a further analysis of the submissions made by learned counsels appearing for respective Parties, this Court at the outset observed that both the Petitioner as well as the Opposite Party to the present CMP application are in favour of the compromise arrived at and none of them disputed the application filed by the Petitioner



under Order 23 Rule 3 of the CPC. It is also not disputed that the property which is the subject matter of the dispute involved in the present suit is an ancestral property. On a close scrutiny of the impugned orders at Annexures 3 and 4 passed by the learned trial Court as well as the revisional Court, this Court found that the compromise was not accepted as the pleadings in the application under Order 23 Rule 3 of CPC fall short of the satisfaction required by the Courts. The learned trial Court has specifically raised the issue that the application under Order 23 Rule 3 of CPC was filed only on the basis of the RoR and no title deed was submitted by the Plaintiffs before the learned trial Court for consideration. While exercising the power under Order 23 Rule 3 of CPC, the learned trial Court is shall under such agreement/compromise to be recorded and pass a decree in accordance thereof but only after being satisfied that the suit has been adjusted wholly/in part by a lawful agreement/compromise. On a careful analysis of the order passed by both the Courts, this Court found that the Parties to the suit failed to satisfy the Court with regard to the agreement or the compromise arrived at. Such satisfaction as has been expressed under Order 23 Rule 3 of CPC is a subjected satisfaction of the Court. Therefore, the learned trial Courts while rejecting the application of the Petitioner, have not committed any illegality in expressing their views that they were not satisfied on the basis of the materials produced before them.

9. In view of the factual position as a chance at the stood at the time of passing of the impugned order at Annexures-3 and 4, this Court is of the view that the same does not required any interference of this Court. However, taking into consideration the submissions made by the learned counsels appearing for both sides and the fact



that they are ready and willing to produce further materials to satisfy the learned trial Court with regard to the settlement arrived at among the Parties, this Court is inclined to grant another opportunity to the Parties. Accordingly, the present CMP application is being disposed of by granting liberty to the Petitioner to file a fresh application under Order 23 Rule 3 of CPC along with all necessary documents for examination and satisfaction of the learned trial Court within four weeks' from today. In such eventuality, the learned trial Court, after providing an opportunity to both sides and subject to satisfaction with regard to the compromise among the Parties, shall pass necessary orders in accordance with law, within a period of two months thereafter.

10. With the aforesaid observation and direction, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Sisir