



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1151 of 2024

K.Rajyalaxmi

....

Petitioner

Mr. A.K.Mohanty, Advocate

-Versus-

K.Appa Rao & Others

....

Opposite Parties

Advocate

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

30.04.2025

Order No.

01.

1. Heard Mr. Mohanty, learned counsel for the petitioner.
2. No notices are issued to opposite party Nos. 1 & 2 as the matter is disposed of at the stage of admission. Notices to the Proforma opposite parties are dispensed with as the same is not necessary.
3. Instant petition is filed by the petitioner challenging the impugned order dated 8th April, 2024 passed in C.S. No. 69 of 2023 by learned Senior Civil Judge, Chhatrapur, Ganjam, whereby, an application seeking production of a document in support of the prior partition moved by her was rejected.
4. Referring to a copy of the plaint as at Annexure-1. Mr. Mohanty, learned counsel for the petitioner would submit that the document vis-à-vis the earlier partition in the year 1970 was sought to be produced but it has been denied. Referring to the pleading as at Annexure-1 with regard to the partition held in the year 1970,



Mr. Mohanty, learned counsel submits that such an application was filed seeking production of the relevant document in support thereof but it led to the passing the impugned order (Annexure-3).

5. A copy of the application filed by the petitioner is at Annexure-2 and the same is perused. The suit is at the instance of opposite party Nos. 1 & 2 for partition. The petitioner as defendant No.1 moved the application as per Annexure-4 seeking production of the document of partition. Even though such partition is pleaded on record as revealed from Annexure-1, the suit is at the behest of opposite party Nos. 1 & 2 for partition with such other reliefs. Considering the claim of an earlier partition revealed from Annexure-1, the application was moved by the petitioner, the Court is of the view that since the hearing of the suit has not commenced and there is no reference to any document with regard to the partition of 1970 and as such, the suit is for partition by metes and bounds, the Court is of the view that learned court below did consider the same and rightly declined to direct production of document with regard to the alleged partition. The Court is also of the view that in case any such evidence from the side of opposite party Nos. 1 & 2 revealed regarding the execution of document on the prior partition, the petitioner should be granted the liberty to renew the prayer at such stage of the hearing of the suit.

6. Accordingly, it is ordered.

7. In the result, the CMP stands disposed of with the liberty allowed in favour of the petitioner. It is directed that in case any such application is filed in future after commencement of hearing of the suit and upon closure of evidence from the side of opposite party Nos. 1 & 2, learned Civil Judge(Senior Division), Chhatrapur, Ganjam shall consider the same and to pass necessary order



according to law upon receiving objection of the other side. In the circumstances, however, there is no order as to costs.

8. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

kabita

Signature Not Verified

Digitally Signed
Signed by: KABITARANI MAJHI
Reason: Authentication
Location: Ohc,Cuttack
Date: 02-May-2025 19:23:44

