

IN THE HIGH COURT OF ORISSA AT CUTTACK

RSA NO.446 OF 2023

Badal Babu Rath

Appellant
Mr. B. K. Routray,
Advocate

-versus-

***Biswamitra Rath &
Others***

Respondents
Ms. S. Das, Advocate for
R-1, 3, 4 & 5

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
30.10.2023**

Order No.

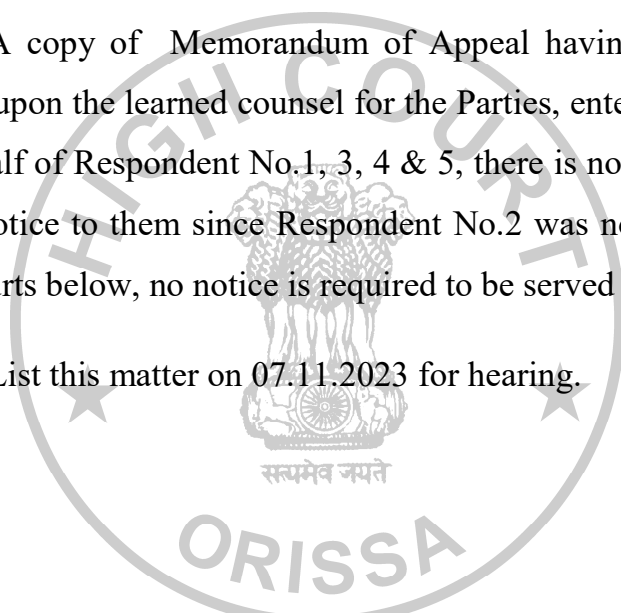
01. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. Mr. S. Rath, learned counsel & Associates enter appearance on behalf of Respondents files Vakalatnama in Court today, which is taken on record. Name of Mr. S. Rath, learned Counsel and Associates be reflected in the cause list as also the brief.
3. Heard learned Counsel for the Appellant and learned counsel for the Respondents.
4. The Appeal is admitted to answer the following substantial questions of law:-
- i. When as per the admitted position of law, Balaram had also sold properties to others besides the Defendant No.3, the Courts below are right in holding

the suit for partition only in respect of the properties sold to Defendant No.3 without bringing the other, sold the properties to hotchpot and purchasers as parties, as maintainable?

- ii. Whether the suit for partition of the properties sold by Balaram to Defendant No.3 is maintainable without the prayer to declare the said sale made by Balaram to Defendant No.3 as void?

5. A copy of Memorandum of Appeal having already been served upon the learned counsel for the Parties, entered appearance on behalf of Respondent No.1, 3, 4 & 5, there is no need to further issue notice to them since Respondent No.2 was not contesting in the Courts below, no notice is required to be served on her.

6. List this matter on 07.11.2023 for hearing.



(D. Dash)
Judge