



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.2086 of 2025

***Executive Engineer (Electrical)
Kalahandi East Electrical
Division (TPWODL), Kalahandi***

.....

Petitioner

Represented by Adv. -
Prasanta Kumar Tripathy

-versus-

Jasobanti Sahu and others

.....

Opposite Parties

Represented by Adv. -

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

26.02.2026

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioner. Perused the CMP application as well as the prayer made therein.
 3. The defendant in C.S. No.101 of 2020 pending before the court of learned Civil Judge, Sr. Division, Kalahandi has approached this Court by invoking the jurisdiction under Article 227 of the Constitution of India thereby challenging order dated 10.07.2025, whereby the application of the defendant-Petitioner under Order 1 Rule 10(2) of the CPC has been rejected.
 4. Learned counsel for the Petitioner at the outset contended that the Opposite Parties as plaintiff filed a suit for damage against the



Petitioner-defendant. The Petitioner-defendant filed an application under Order 1 Rule 10(2) taking therein a plea that a necessary party has not been added to the suit and in his absence the suit cannot be adjudicated. Accordingly, a prayer was made to implead such person, namely Sumit Sahu as a party to the suit. However, such application has been dismissed by the learned trial Court vide order dated 10.07.2025. Being aggrieved by such order the Petitioner-defendant has approached this Court by filing the present CMP application.

5. Learned counsel for the Petitioner in course of his argument submitted that the above named Sumit Sahu is a necessary party to the suit as the above named person is at fault for the damage cause to the plaintiffs. In such view of the matter, learned counsel for the Petitioner contended that the above named person is a necessary party and in his absence the suit for damages cannot be adjudicated. Accordingly, the application of the Petitioner-defendant has been erroneously rejected by the learned trial Court. In such view of the matter, learned counsel for the Petitioner contended that the order dated 10.07.2025 is unsustainable in law, and accordingly, the same should be set aside.

6. Having heard the learned counsel for the Petitioner, on a careful examination of the factual background of the present application, further taking note of the order dated 10.07.2025, this Court found that an application under Order 1 Rule 10(2) at Annexure-5 was filed at the instance of the Petitioner before the learned trial Court. However, such application has been rejected vide order dated 10.07.2025 under Annexure-6. On a close scrutiny of the impugned order at Annexure-6, it is observed that the learned trial



Court by virtue of a detailed order has come to a conclusion that the suit is at a stage of adducing evidence from the side of the defendant and that the defendant has not established that the above noted Sumit Sahu is somehow related to the suit and in his absence the suit cannot be properly adjudicated. The learned trial Court has also observed that in the event it is found that the above named person is a necessary party to the suit, in his absence the suit is liable to be dismissed. However, to come to such a conclusion the evidence to be laid from the side of the defendant is required to be gone into at the time of final hearing. In view of the aforesaid position, this Court, while disposing of the present application without interfering with the impugned order, grants liberty to the Petitioner to raise the question of non-joinder of necessary party at the time of final hearing of the suit. In such eventuality, the learned trial Court shall consider the same keeping in view the evidence adduce from both sides and pass necessary order thereon.

7. With the aforesaid observation/direction, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge