
(2023) 12 OHC CK 0102
In the Orissa High Court
Case No : S.A. No.121 Of 1994

Bhagirathi Khuntia(Dead) And Others APPELLANT
Vs
Golapi Gouduni(dead) And Others RESPONDENT

Date of Decision : 18-12-2023

Acts Referred:

Citation : (2023) 12 OHC CK 0102

Hon'ble Judges : A.C. Behera, J

Bench : Single Bench

Advocate : S.E. Haque, C.A. Rao

Final Decision : Disposed Of

Judgement

A.C. Behera, J

I.A. No.228 of 2023

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This Interlocutory Application has been filed on behalf of the appellants with a prayer to stay the further proceedings of the Execution Case No.2 of 1992 pending in the court of learned Civil Judge(Jr. Division), Bissam Cuttack till the final disposal of the 2nd appeal. As the learned Civil Judge(Jr. Division), Bissam Cuttack is proceeding with the Execution Case No.02 of 1992 for delivering the possession of the suit properties in order to execute the decree passed in T.S. No.02 of 1991, for which, the stay of the further proceeding of Execution Case No.02 of 1992 is badly essential.
3. This 2nd appeal is an year old appeal of the year 1994 and the same is at the stage of its final hearing. The 2nd appeal was listed today for hearing, but the learned counsel for the respondents prayed for an adjournment of hearing of the 2nd appeal, for which, the hearing of the 2nd appeal has been adjourned on the prayer of the learned counsel for the respondents.

4. When the judgment and decree of the trial court as well as the 1st appellate court passed in T.S. No.02 of 1991 and T.A. No.03 of 1992 are under challenge in the 2nd appeal and in case of delivery of possession of the suit properties during the pendency of the 2nd appeal, the main purpose/object of preferring the 2nd appeal shall be frustrated.

5. It is the settled propositions of law that, all the Civil Courts of India shall keep the suit properties during the pendency of the litigation between the parties as it is in status quo without allowing the parties to change the nature and character of the same and to create any third party interest thereon for no other reason, but only in order to avoid the multiplicity of litigations between the parties.

6. Therefore, by taking the aforesaid propositions of law into account, it is felt proper to allow Interlocutory Application No.228 of 2023 filed on behalf of the appellants to stay the further proceedings of Execution Case No.02 of 1991 pending in the court of learned Civil Judge (Jr. Division), Bissam Cuttack till the final disposal of the 2nd appeal. Hence, ordered.

ORDER

The Interlocutory Application filed by the appellants/petitioners is allowed.

Further proceeding of the Execution Case No.02 of 1992 pending in the court of learned Civil Judge(Jr. Division), Bissam Cuttack to execute the judgment and decree passed in T.S. No.02 of 1991 is stayed till the final disposal of the 2nd appeal.

Accordingly, Interlocutory Application is disposed of finally. Urgent certified copy of this order be granted to the parties on proper application for the same.

S.A. No.121 of 1994

7. List this appeal on 18.01.2024.

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