

(1979) 01 OHC CK 0002

In the Orissa High Court

Case No : Civil Revision No. 487 of 1978

Chintamani Mahasuar and Others

APPELLANT

Vs

Kasinath Mahasuar

RESPONDENT

Date of Decision : 05-01-1979

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 8, Order 1 Rule 8(3)

Citation : (1979) 47 CLT 365

Hon'ble Judges : P.K. Mohanti, J

Bench : Single Bench

Advocate : B.K. Mohanty, for the Appellant; S. Mantry, S. Misra (2), B. Das and K.K. Rath, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Mohanti, J.—This revisional application is directed against an order rejecting the Petitioners prayer for being added as parties to the suit under the provisions of Order 1, Rule 8, Sub-rule (3), Code of Civil Procedure.

2. Opposite parties 1 to 5 filed O.S. No. 134 of 1977 on their own behalf and as representing the Suars and Mahasuars of the Suar-Mahasuar Nijog of the temple of Lord Jagannath. The suit is for declaration that the Suars and Mahasuars of the Nijog are jointly entitled to get 20 items of Kheis for the services rendered by them to the temple and that the orders passed by the Administrator of the jagannath Temple and the Appeal Committee on 4-9-1964 and 10-8-1977 respectively are void and illegal. Opp. party No. 7 is a Mahasuar of the Temple. He has been sued for self and as representing the Mahasuars who have joined hands with him in disputing the right of the Nijog to get the Kheis. The suit was filed on 12th December, 1977 and the requisite permission of the Court was obtained under Order 1, Rule 8, Code of Civil Procedure. After the suit was posted for pre-emptory hearing in pursuance of the direction issued by this Court in Misc. Appeal No. 79 of 1978, the Petitioners who are Mahasuars of the Nijog applied for being added as parties to the suit. The trial Court rejected the

application on the grounds that it was filed at a late stage and that it did not disclose sufficient grounds for adding the Petitioners as parties to the suit. It is urged in this civil revision that under Order 1, Rule 8, Sub-rule (3), CPC the Petitioners are entitled as of right to be added as parties to the suit.

3. Order 1, Rule 8, CPC provides that where there are numerous persons having the same interest the Court may direct that anyone or more of those persons may sue or be sued on behalf of the other persons similarly interested. It is a rule of convenience in order that a large number of persons who are similarly interested in the subject-matter or the suit may be represented by some of them. Under Order 1, Rule 8, Sub-rule (3) any person on whose behalf or for whose benefit a suit is instituted or defended is entitled to apply to the Court to be made a party to such suit and the Court has a discretion, if it thinks fit, to add him as a party. But if all other persons similarly interested would be entitled as of right to be added as parties, the very object of the rule would be defeated. A person applying under Order 1, Rule 8, Sub-rule (3) for being added as a party must satisfy the Court that his interests will be seriously affected if he is not added as a party. He must show that the person representing him in the suit has acted in some way which is prejudicial to his interest.

4. In the present case, the Petitioner did not allege that the opposite party No. 7 was not properly defending diem in the suit and that they would be prejudiced if they are not added as parties. Their allegation in the petition was that opposite party No. 7 was defending the suit for the benefit of the Mahasuars and was asserting their right over the subject-matter of the suit but lest their interest may not be protected it was necessary that they should be added as parties. In the absence of any allegation that interests of the Petitioners were not being properly safeguarded by opposite party No. 7 the learned Subordinate Judge was justified in rejecting the application.

5. There is no merit in this civil revision and it is accordingly dismissed, but in the circumstances without any order as to costs.

Revision dismissed.