

(2024) 01 OHC CK 0096
In the Orissa High Court
Case No : CMP No. 1411 Of 2023

Gangadhar Behera Vs Jogendra Behera And Others ?

Date of Decision : 10-01-2024

Acts Referred:

Code of Civil Procedure, 1908 — Order 1 Rule 10

Citation : (2024) 01 OHC CK 0096

Hon'ble Judges : K.R. Mohapatra, J

Bench : Single Bench

Advocate : Ranjan Kumar Nayak

Final Decision : Disposed Of

Judgement

K.R. Mohapatra, J

1. This matter is taken up through hybrid mode.
2. Order dated 2nd November, 2023 (Annexure-1) passed by learned 1st Additional Senior Civil Judge, Balasore in I.A. No.187 of 2019 (arising out of Execution Case No.17 of 2018) is under challenge in this CMP, whereby an application filed by the 3rd party interveners under Order 1 Rule 10 CPC to be impleaded as parties to the execution proceeding, has been allowed.
3. Mr. Nayak, learned counsel for the Petitioner submits that C.S. No.142 of 1996 was disposed of on compromise. During pendency of the execution proceeding, an application under Section 47 CPC was filed. When the said application was pending for consideration, Opposite Party Nos.7 to 11 as 3rd party interveners filed an application under Order 1 Rule 10 CPC to be impleaded as parties to the execution proceeding. Although detailed objection was filed by the Petitioner, who is one of the D.Hrs, learned executing Court allowed the said application by a cryptic order under Annexure-1 without taking note of the objection filed by the Petitioner. Hence, this CMP has been filed.
4. Considering the submission made by learned counsel for the Petitioner and on perusal of the case record, it appears that the impugned order under Annexure-1

is cryptic and non-speaking one. Objection filed by the Petitioner was neither discussed nor taken into consideration in the impugned order. Hence, the same being unreasoned one, is not sustainable and is accordingly set aside. The matter is remitted to learned executing Court to consider the petition under Order 1 Rule 10 CPC filed by the interveners afresh giving opportunity of hearing to the parties concerned and by passing a reasoned order.

5. The CMP is accordingly disposed of.

6. Since the CMP is disposed of without issuing notice to the Opposite Party Nos.7 to 11, they are at liberty to seek for variation of this order, if they feel aggrieved.

Urgent certified copy of this order be granted on proper application.

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