
(1954) 03 OHC CK 0015
In the Orissa High Court
Case No : C.R. No. 125 of 1953

Sankirtan Gountia

APPELLANT

Vs

Mst. Nura Dumaluni and Another

RESPONDENT

Date of Decision : 26-03-1954

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 10(5)

Citation : (1955) 21 CLT 143

Hon'ble Judges : Panigrahi, C.J

Bench : Single Bench

Advocate : G.K. Misra, for the Appellant; B.N. Das and B. Sentra, for the Respondent

Judgement

Panigrahi, C.J.—This is a revision directed against the order of the Additional Munsif, Bargarh, passed on 23-6-53, directing the addition of a new party, namely, Lakshman Padhan, as Defendant No. 2 in a suit for rent. The Plaintiff's case was that Nura Dumaluni was his tenant and accordingly he filed a suit for recovery of rent due from her as arrears. The Defendant raised the plea that she had alienated the lands in favour of Lakshman and that the latter was a necessary party. The Plaintiff does not admit either the alienation, or that Lakshman has acquired the status of a tenant. The Munsif, however, acting under Order 1 Rule 10 of the CPC directed Lakshman to be added as a party Defendant on 23-5-53. The suit having been filed in 1951 the claim of the Plaintiff would obviously be barred against Lakshman. I fail to see therefore why Lakshman should be brought on the record at this stage when the suit as against him is not maintainable under Order 1, Rule 10(5) Code of Civil Procedure.

2. But apart from that, if Lakshman has acquired any tenancy right in the holding he will not be bound by the decree that may be passed against a wrong person. If the Plaintiff is not anxious to bring him on the record and have a decree passed in his presence I do not see why at this stage a stranger should be added, which will have the result of converting a rent suit into a dispute over

title. I would therefore set aside the order of the Munsif directing the addition of Lakshman as a party Defendant and direct that the suit should proceed as framed, against Nura Dimaluni alone. The revision succeeds, but I would make no order as to costs.