



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMAPL No.629 of 2023

Parameswar Chhura & ors.

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Petitioners

Represented By Sr.
Adv. -Mr.S.K. Mishra

-versus-

Purna Ansari @ Ganda & ors.

.....

Opposite Parties

Represented By Adv. -

CORAM:

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

ORDER

30.04.2024

Order No.

- 07.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Registry is directed to reflect the name of Mr. S.K. Mishra, learned Senior Counsel appearing for the Petitioners in the cause list as well as in the brief.
 3. Heard learned Senior Counsel for Petitioners.
 4. Learned Senior Counsel for the Petitioners contended that the Opposite Party No.1, namely, Purna Ansari @ Ganda is dead in the meantime. He further contended that on inquiry the appellant could ascertain that the said Purna Ansari @ Ganda has not left behind his legal heirs. Therefore, there exist nobody with a subsisting right to issue and disuse in the name of the deceased-Opposite Party No.1.
 5. Accordingly, a memo has been filed to delete the name of Opposite Party No.1 who is the Respondent No.1 in the second appeal. So far, Opposite Party No.2 to 8 are concerned, it is stated by learned Senior Counsel for the petitioners that they are all Opposite Parties and they are not contesting the case. As such no notice is required to be sent to those Opposite Parties. Further, on examination of the CMAPL it



appears that the same has been filed within period of limitation therefore, there exists no delay.

6. So far the merits of the matter is concerned, learned Senior Counsel for the Petitioners submitted that the R.S.A. No.88 of 2006 dismissed vide order dated 27.11.2019 by observing that the learned counsel for the appellants has no instruction in the matter. Learned Senior Counsels for the appellants-Petitioners contended that since there was a communication gap and the appellant could not be any instruction to his counsel. On such ground, learned counsel for the Petitioners submitted that unless the CMAPL is allowed and the second appeal is restored to file the petitioners is likely to suffer a lot of prejudice.

7. Considering the aforesaid grounds taken on learned Senior Counsel appearing for the Petitioners, this Court is inclined to allow the CMAPL. Accordingly, the R.S.A. is restored to file.

8. Registry is directed to list this matter before the appropriate assigned bench, however, it is made clear that this Court has not made any observations with regard to substitution of Respondent No.1 which shall be considered by the appropriate assigned bench in accordance with law.

9. Accordingly, CMAPL is allowed.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 01-May-2024 10:22:05

