

(2024) 07 OHC CK 0009

Orissa High Court

Case No: CMP No. 1353 Of 2022

Haramani Dibya

APPELLANT

Vs

Hiren Kumar Dutta
And Others

RESPONDENT

Date of Decision: July 3, 2024

Acts Referred:

- Code of Civil Procedure, 1908 - Order 23 Rule 1

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

Bench: Single Bench

Advocate: Samir Kumar Mishra, Sushrita Sahoo, Amiya Kumar Mishra, Kaibalya Panda,
Pronoy Mohanty

Final Decision: Disposed Of

Judgement

K.R. Mohapatra, J

1.Â Â This matter is taken up through hybrid mode.

2.Â Â Petitioner in this CMP seeks to assail the order dated 11th November, 2022 (Annexure-3) passed by learned Additional Civil Judge, (Senior

Division), Puri in TS No.348 of 1998, whereby an application filed by the Petitioner for stay of further proceedings of the suit till disposal of RFA

No.129 of 2013 pending in the Court of learned 3rd Additional District Judge, Puri, has been rejected.

3. Mr. Panda, learned counsel, being authorized by Mr. Mohanty, learned counsel for the Opposite Party No.3 places on record the order dated 7th

March, 2024, whereby an application filed under Order XXIII Rule 1 CPC by Puri Municipality for withdrawal of CS No.305 of 2008, has been

allowed.

4. Mr. Panda, learned counsel appearing for Opposite Party No.3 submits that RFA No.129 of 2013 arose out of CS No.305 of 2008. In the

meantime, RFA No.129 of 2013 was decreed remitting the matter to learned trial Court for fresh adjudication of the suit. Subsequently, the Puri

Municipality-Opposite Party No.3 filed an application under Order XXIII Rule 1 CPC for withdrawal of the suit, which was allowed vide order dated

7th March, 2024. Hence, nothing remains to be adjudicated in this CMP.

5. Mr. Mishra, learned Senior Advocate appearing for the Petitioner submits that since CS No.305 of 2008 has already been disposed of as

withdrawn, this CMP has become infructuous.

6. Mr. Mishra, learned Additional Government advocate submits that this CMP has become infructuous, in view of the facts and circumstances, stated

by learned counsel for the parties.

7. In view of the above, this CMP is disposed of as infructuous.

8. Interim order dated 19th January, 2023 passed in IA No.1403 of 2022 stands vacated.

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