

HIGH COURT OF ORISSA : CUTTACK

C.M.P. No.1545 of 2018

AFR

In the matter of an application under Article 227 of the Constitution of India.

Sanjay Kumar Das Petitioner

Versus

Munmum Patnaik and others Opposite Parties

For Petitioner ... Mr. Prafulla Ch. Biswal, Advocate

PRESENT:

THE HONOURABLE DR. JUSTICE A.K.RATH

Date of hearing and judgment : 21.12.2018

Dr. A.K.Rath, J The core question that falls for determination in this petition is whether a woman, who is a domicile of the State of Orissa and became US citizen, is exempted from payment of court fee ?

2. Since the dispute lies in a very narrow compass, facts need not be recounted in details. Suffice it to say that plaintiff-opposite party no.1 instituted the suit for declaration of title, partition and permanent injunction. The suit is valued at Rs.1,11,84,300/- on which, advolerum court fees of Rs.3,61,931/- is payable. As the plaintiff is a woman, she is exempted from payment of court fees. After appearance, defendant no.1 filed an application stating therein that the plaintiff is a citizen of USA since 1991. She is an NRI. She is not

exempted from payment of court fees. Learned trial court rejected the same on 4.12.2018. The instant petition seeks to lacinate the said order.

3. Heard Mr. Prafulla Ch. Biswal, learned counsel for the petitioner.

4. The Government of Orissa, in exercise of power conferred under Section 35 of the Court Fees Act, 1987, issued SRO No.575 of 1994 remitted in the whole of the State of Orissa all fees mentioned in schedule I & II of the Act payable for filing or instituting cases or proceedings in any Court in Orissa the persons named in the clauses (i) to (vii). The same reads as follows:

“S.R.O. No.575/94 – In exercise of the powers conferred by Section 35 of the Court-fees Act, 1870 (VII of 1870), the State Government do hereby remit in the whole of the State of Orissa all fees mentioned in Schedules I and II to the said Act payable for filing or instituting cases or proceedings in any Court in Orissa by the following categories of persons, namely:

- (i) member of Scheduled Castes;
- (ii) member of Scheduled Tribes;
- (iii) women;
- (iv) minors;
- (v) persons with disabilities;
- (vi) persons whose annual income does not exceed one lakh rupees, and
- (vii) persons who are otherwise entitled to legal service under the Legal Service Authorities Act, 1987.”

5. On a bare reading of the notification, it is evident that seven categories of persons are exempted from payment of court fees. Women are exempted from payment of court fees. The language of the notification is clear & explicit. The word 'woman' has not been pre-fixed by any adjective. It takes with its sweep the woman of any status or nationality. The Court cannot interpret the same in a manner which will defeat the purpose of the notification.

6. The plaintiff is a woman. In view of the notification issued by the State of Orissa, she is exempted from payment of court fees.

7. The impugned order does not suffer from any illegality or infirmity warranting interference of this Court under Article 227 of the Constitution. The petition is dismissed.

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DR. A.K.RATH, J

*Orissa High Court, Cuttack.
Dated the 21.12.2018/Uks*