



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. No.504 of 2018

(In the matter of an appeal under Section 100 of the Code of Civil Procedure, 1908)

Sarada Prasanna Nanda *Appellant*

-versus-

M(Malichiti) Padmini Kumari Patra *Respondent*

Appeared in this case:-

For Appellant : *Mr. S.P. Mishra, Sr. Advocate*
assisted by Mr. R.K. Agarwal,
Advocate

For Respondent : *Mr. P.K. Rath, Sr. Advocate*
assisted by Mr. S. Rath, Advocate

CORAM:
JUSTICE A.C. BEHERA

JUDGMENT

Date of hearing : 18.03.2026 / date of judgment :30.04.2026

A.C. Behera, J. This 2nd appeal has been preferred against the confirming judgment.

2. The appellant in this 2nd appeal was the defendant before the learned trial court in the suit vide C.S. No.1177 of 2011 and appellant



before the learned 1st appellate court in the 1st appeal vide RFA No.08 of 2016.

The respondent in this 2nd appeal was the plaintiff in the suit vide C.S. No.1177 of 2011 and respondent before the learned 1st appellate court in the 1st appeal vide RFA No.08 of 2016.

3. The suit of the plaintiff (respondent in this 2nd appeal) vide C.S. No.1177 of 2011 against the defendant (appellant in this 2nd appeal) was a suit for partition.

4. As per the case of the plaintiff, she (plaintiff) and defendant both are the Hindus and they are guided and governed by Mitakshyara School of Hindu Law.

The properties described in the schedule of the plaint are the suit properties for partition. The suit properties are the homestead properties. She (plaintiff) and defendant are the joint owners of the suit properties and the suit properties have been recorded in the Hal Settlement jointly in their names. As such, she (plaintiff) and defendant both have equal share in the suit properties.

As per the Sabik RoR of the year 1962, Plot No.1067 A.0.108 decimals under Sabik Khata No.120 in Mouza-Nayapalli originally belonged to the Sabik recorded tenants, i.e., Damodar Moharana,



Basudev Moharana and Mahadev Moharana all are sons of Hrushi Moharana of village-Jambeswar Patna, Old Town, Bhubaneswar.

After death of Damodar Moharana, his son and successor, i.e., Harihar Moharana sold A.0.0490 decimals out of A0.108 decimals from Sabik Plot No.1067 to one Anarasi Surama Patra wife of A. Laxman Patra of village Takabali in the district of Phulbani in the year 1978 through RSD No.6756 dated 11.09.1978. While Ansari Surama Patra was possessing her aforesaid purchased properties, she sold the same to the plaintiff through RSD No.2980 dated 26.07.1983(Ext.3) and delivered possession thereof and plaintiff possessed the same and planted coconut trees on the same.

5. The successors of Basudev Moharana and Mahadev Moharana, i.e., Bhabani and Purna Moharana sold rest land of Sabik Plot No.1067 to one Swagat Mohanty son of Bijay Kumar Mohanty of village-Malagrama of Puri District through RSD No.7176 dated 02.09.1985(Ext.4). The suit properties corresponds to Sabik Plot No.1067 under Sabik Khata No.120.

6. During last settlement operation, the draft RoR vide Ext.5 of the suit properties under Khata No.956 was jointly prepared in the name of the plaintiff and Swagat Kumar Mohanty.



When, Swagat Kumar Mohanty sold his purchased land to the defendant, through RSD No.10653 dated 29.10.2004, then, she(plaintiff) filed an appeal vide Appeal Case No.2055 of 2006 under Section 22(2) of the OSS Act, 1958 before the Settlement Officer impleading the defendant as respondent for separate recording of the suit properties in their names on the basis of their aforesaid purchase through separate sale deeds, but the said appeal was dismissed. Then, the final Hal RoR of the suit properties vide Ext.8 was published jointly in the name of the plaintiff and defendant. For which, she(plaintiff) requested the defendant for partition of the suit properties, to which, the defendant avoided and tried to block the entry point in order to prevent the entry of the plaintiff into the suit properties. Therefore, without getting any way, she(plaintiff) approached the Civil Court by filing the suit vide C.S. No.1177 of 2011 against the defendant praying for partition of her half share from the suit properties along with other reliefs, to which, she(plaintiff) is entitled for.

7. Having been noticed from the learned trial court in the suit vide C.S. No.1177 of 2011, the defendant challenged the suit of the plaintiff by filing his written statement taking his stands therein that, the suit of the plaintiff is not maintainable. The suit of the plaintiff is bad for non-joinder of the parties. There was no cause of action for the plaintiff to file the suit. The suit of the plaintiff is barred by limitation.



As, the Settlement Appeal No.2055 of 2006 filed by the plaintiff under Section 22 of the OSS Act, 1958 was disposed of on dated 20.03.2008 by the Settlement Officer and the plaintiff has not challenged the same within three months by filing suit, then, the suit of the plaintiff is barred by limitation.

The specific pleas of the defendant were that, the suit properties have been inadvertently recorded jointly in his name along with the name of the plaintiff. The averments made by the plaintiff in his plaint are not correct. He(defendant) is residing on Plot No.576/3208. He has not purchased any undivided share of Swagat Kumar Mohanty through RSD No.10653 dated 29.10.2004. The plaintiff has no share in the suit properties. She(plaintiff) has suppressed the facts that, she(plaintiff) as well as the defendant are under litigation with one A. Gitanjali Patro wife of Late A. Laxman Patro and another A. Rameswar Patro son of Late A. Laxman Patro in an Appeal Case No.570 of 2010, which is pending for disposal before the Settlement Officer. A. Gitanjali Patro and A. Rameswar Patro has initiated that Appeal Case No.570 of 2010 on the basis of RSD No.6756 dated 11.08.1978 and registered partition deed dated 26.07.1983. According to them, on the basis of that partition deed dated 26.07.1983, the suit properties had fallen into their shares and their



further claim is that, A. Laxman Patro had purchased the suit property through RSD No.3278 dated 04.07.1992.

As the plaintiff has not made A. Gitanjali Patro and A. Rameswar Patro as parties to the suit and she(plaintiff) has suppressed the same, then, the suit filed by her is liable to be dismissed.

She(plaintiff) has suppressed the fact that, she has purchased the land, to which, there was/is no road and the said land is not annexed with the easementary right of the use of any land as road.

The said property(to which the plaintiff has purchased) lies towards Eastern portion of the Sabik Plot No.1067 bereft of road. The plaintiff is not in possession over any portion of the suit properties. She(Plaintiff) had never requested him(defendant) at any time for partition. So, the plaintiff has no interest in the suit property. Therefore, the suit of the plaintiff is liable to be dismissed.

8. Basing upon the aforesaid pleadings and matters in controversies between the parties, altogether seven numbers of issues were framed by the trial court in the suit vide C.S. No.1177 of 2011 and the said issues are:-

ISSUES

- (i) Whether the suit is maintainable?



- (ii) Whether there is any cause of action to file the suit?
- (iii) Whether the suit is barred by the law of limitation?
- (iv) Whether the suit is bad for non-joinder of necessary party?
- (v) Whether the plaintiff is entitled to a decree of partition of the suit schedule land?
- (vi) Whether the plaintiff is entitled to half share over the shit schedule land?
- (vii) To what other reliefs, the parties/plaintiff is entitled?

9. In order to substantiate the aforesaid relief, i.e., partition sought for by the plaintiff against the defendant in the suit vide C.S. No.1177 of 2011, she (plaintiff) examined herself as P.W.1 and relied upon the documents vide Exts.1 to 6.

On the contrary, in order to defeat/ nullify the suit of the plaintiff, the defendant examined four witnesses from his side including him(defendant) as D.W.1 and relied upon the document vide Exts.A to C.

One document was marked as Ext.X at the instance of the court.

10. After conclusion of hearing and on perusal of the materials, documents and evidence available in the record, the learned trial court answered all the issues in favour of the plaintiff and against the defendant and basing upon the findings and observations made by the learned trial court in all the issues in favour of the plaintiff and against the defendant, the learned trial court decreed the suit of the plaintiff vide



C.S. No.1177 of 2011 on contest against the defendant, as per its judgment and decree dated 11.01.2016 and 22.01.2016 respectively and declared that, the plaintiff and defendant each are entitled to get half share from the suit properties and directed them(parties) to effect partition of the suit scheduled properties in accordance to their aforesaid determined half share within the period indicated therein assigning the reasons that,

“as the suit properties have been recorded jointly in the names of the plaintiff and defendant as per the finally published Hal RoR vide Ext.8 and the said Hal RoR has remained un-challenge and when, the plaintiff and defendant are the purchasers from Sabik recorded owners thereof through separate sale deeds and when, the suit is for partition, then, the same is not required to be filed within three years from the date of publication of the Hal RoR. Therefore, the plaintiff is entitled to get the decree for partition of her half share from the suit properties.”

11. On being dissatisfied with the aforesaid judgment and decree for partition passed by the learned trial court in C.S. No.1177 of 2011, the defendant challenged the same preferring the 1st appeal vide RFA No.08 of 2016 being the appellant against the plaintiff arraying her(plaintiff) as respondent.



After hearing from both the sides, the learned 1st appellate court dismissed to that 1st appeal vide RFA No.08 of 2016 of the defendant on contest against the plaintiff as per its judgment and decree dated 18.09.2018 and 01.10.2018 respectively confirming / concurring the findings and observations made by the trial court in favour of the plaintiff and against the defendant in the judgment and decree of the suit vide C.S. No.1177 of 2011 assigning the reasons that,

“when, the draft RoR vide Ext.5 was prepared jointly in the name of the plaintiff and vendor of the defendant and when the final Hal RoR of the suit properties vide Ext.8 has been published jointly in the names of the plaintiff and defendant on the basis of the decision made by the Settlement Officer in Settlement Appeal Case No.570 of 2010 as per Ext.A and the said order has remained un-challenge and the same is binding upon the parties and when, there is no material in the record on behalf of the defendant to show that, the plaintiff has no interest in the suit properties, then, there is no impropriety in the judgment and decree for partition passed by the learned trial court. For which, the findings and observations made by the learned trial court in the judgment and decree passed in the suit vide C.S. No.1177 of 2011 are accepted.”

12. On being aggrieved with the aforesaid judgments and decrees for partition of the suit properties between the plaintiff and defendant passed



by the learned trial court in C.S. No.1177 of 2011 and the learned 1st appeal vide RFA No.08 of 2016, the defendant challenged the same preferring this 2nd appeal being the appellant against the plaintiff arraying her (plaintiff) as respondent.

13. This 2nd appeal was admitted on formulation of the following substantial questions of law and the said questions of law are :-

- “1. Whether the suit for partition between two strangers as purchasers is maintainable in absence of common co-sharers of joint family?
2. Whether the relief of partition can be granted completely relying upon the settlement record, especially when properties in question are impartible?
3. Whether the plaintiff has any subsisting title over the suit property to claim the partition of the same?
4. Whether, the plaintiff is the purchaser of the part of the suit schedule property?

14. When, the findings and observations made by the learned trial court and the learned 1st appellate court on the basis of the pleadings, evidence and materials in the record are interlinked with the aforesaid formulated substantial questions of law, then all the aforesaid formulated substantial questions of law are taken up together analogously for their discussions hereunder:-

15. I have already heard from the learned senior counsel for the appellant(defendant) and the learned senior counsel for the respondent(plaintiff).



16. In order to assail the impugned judgments and decree passed by the learned trial court and learned 1st appellate court, the learned senior counsel for the appellant(defendant) relied upon the following decisions:-

- (i) In a case between *Swarni vrs. Inder Kaur and others* : reported in (1996) 6 SCC-223
- (ii) In a case between *Balwant Singh and others vrs. Daulat Singh (Dead) LRs and others* : reported in (1997) 6 SCC-137
- (iii) In a case between *Jitendra Singh vrs. State of Madhya Pradesh and others* : reported in (2021) SCC Online(S.C.)-802
- (iv) In a case between *Sita Ram Bhau Patil vrs. Ramachandra Nago Patil(dead) by LRs and others* : reported in (1977) 2 SCC-49

17. On the contrary, in support of the impugned judgment and decree passed by the learned trial court and learned 1st appellate court, the learned senior counsel for the respondent(plaintiff) relied upon the following decisions:-

- (i) In a case between *P. Kishore Kumar vrs. Vittal K. Patkar* : reported in 2023 Live Law(SC)-999
- (ii) In a case between *Smt. Ratnamani Mandal and others vrs. Daniel Mandal and others* : reported in (1987) SCC Online(Orissa)-248
- (iii) In a case between *Apoorva Shantilal Shah, HUF vrs. Commissioner of Income Tax Gujarat-1, Ahmedabad* : reported in (1983) 2 SCC-155
- (iv) In a case between *Shivnarayan(dead) by Legal Representatives vrs. Maniklal(dead) through LRs and others* : reported in (2020) 11 SCC-629



- (v) In a case between *State of U.P. vrs. Manbodhan Lal Srivastava* : reported in (1957) *SCC Online-04*

18. It is the undisputed case of the parties that, the suit properties corresponds to Sabak Plot No.1067 under Sabak Khata No.120. The plaintiff is the purchaser of the half of suit Sabik Plot No.1067 through RSD No.2980 dated 26.07.1983(Ext.3).

Likewise, the defendant is the purchaser of the half of suit Sabik Plot No.1067 through RSD No.10653 dated 29.10.2004(Ext.X).

The draft RoR vide Ext.5 of the suit properties was prepared jointly in the name of the plaintiff and the vendor of the defendant. The final RoR of the suit properties has also been published jointly in the name of the plaintiff and defendant on the basis of the decision made by the Settlement Officer in Settlement Appeal Case No.2055 of 2006 vide Ext.A, in which, the defendant was a respondent. The said decision of the Settlement Officer passed in Settlement Appeal Case No.2055 of 2006 vide Ext.A between the parties has remained un-challenge. The RoR of the suit properties had/has been continuing jointly in the name of the plaintiff and defendant.

19. During the course of hearing, the learned senior counsel for the appellant(defendant) contended that, when the plaintiff and defendant are not the co-sharers being the members of one family and when,



they(plaintiff and defendant) are stranger to each other, then, mere joint recording of the suit properties in their names cannot be a ground to maintain a suit for partition filed by the plaintiff in respect of the suit properties against the defendant.

When, undisputedly the plaintiff and defendant are the purchasers of the parts of the suit properties corresponding to Sabik Plot No.1067, then, it cannot be said that, the parties have no interest in the suit properties. For which, in other words, it can be said that, the parties are the purchasers of the parts of suit Sabik Plot No.1067 through their respective sale deeds vide Ext.3 and Ext.X.

20. When, the suit properties have been recorded jointly in the Hal RoR vide Ext.8 in the name of the plaintiff and defendant, then at this juncture, it will be seen, whether the suit for partition filed by the plaintiff(respondent in this 2nd appeal) vide C.S. No.1177 of 2011 against the defendant(appellant in this 2nd appeal) is maintainable under law or not?

21. It is the settled propositions of laws that, partition implies that interest of different persons in the property to be divided.

A joint pattedar (jointly recorded tenant) is responsible with the others for the payment of revenue, but, whereas, a pot pattedar is liable



to pay the rent independently in respect of the plot, in which, he is the owner as per RoR.

22. Partition and distribution neither give a new title to the property nor transfers a distinct right, but, the same is simply declaratory in nature to the extent of the respective interests of the parties. The partition enable a party to obtain his own land in a defined and specific form.

23. On this aspect, the propositions of law has already been clarified in the ratio of the following decisions :-

(i) In a case between *Govind Rao and another vrs. Erbhadrappa* : reported in *AIR 1956 Hyderabad-50(VOL-43, C.25 April) (D.B.)* that, 'joint pattedars' and 'pot pattedars' convey different meanings.

Where a particular Survey Number is spilt into several sub-numbers and each plot is assessed separately to a part of the revenue on the former number, the persons made liable to pay the separated amount, are the 'pot pattedars' of the several plots.

Thus, one 'pot' pattedar is not jointly responsible with the others for the payment of the revenue of the other 'pot' numbers, and his position is different from that of joint pattedars,

where each is liable for the payment of the entire amount assessed on a particular survey number.

Therefore, the position of the 'pot pattedar' cannot be regarded as identical to that of the joint pattedar. Because, a joint pattedar is liable to pay the entire amount assessed on a particular survey number.



(ii) In a case between *Masummat Girija Bai vrs. Sadashiv Dhundiraj* : reported in *AIR 1916(Privy Council)-104* and in a case between *Shankar Rama Gaude and others vrs. Devastan of Shri Bhagwati of Tuem* : reported in *2006(3) CCC-86(Bombay)* that,

A partition does not give a title or create a title in a person, it only enables the person to obtain what is his own in a definite and specific form for purposes of disposition independent of the wishes of his former co-sharers.

What is effected by partition is only the adjustment of the proprietary right into specific shares.

Therefore, the partition does not give the person, to whom, a land is allotted, any new title or create a title in him to that land, but, in the words of Privy Council, partition only enables him to obtain a definite and specific form the land, which was his own, it cannot be said that, he has acquired that land.

(iii) In a case between *Aralappa and etc. vrs. Sri Jagannath and others* : reported in *AIR 2007 Karnataka-91* that,

Partition does not give title or create title. If the party to the partition has an antecedent title to the property, it only enables him to obtain what is his own in a definite and specific form.

In a partition, no one transfers title which he possesses in favour of a person who does not possess a title. Everyone has an antecedent title. Therefore, no conveyance is involved, in the process, as conferment of a new title is not necessary. Therefore, the partition does not amount to transfer.

So, partition is not a transfer and by partition nobody acquires title to any property for the first time. Consequently, the partition deed only recognizes the existing right, which each party to the deed has in the joint property and no right spring from the deed of partition, as they had right in the property.



(iv) In a case between *Smt. Radhabai vrs. State of Maharashtra and others*: reported in *AIR 1970 Bombay-232* that,

Partition is re-distribution of pre-existing rights or title and not the acquisition of rights by a person for the first time.

24. Here, in this suit/appeal at hand, when both, i.e., plaintiff and defendant being the strangers to each other, they are the purchasers of the part of suit Sabik Plot No.1067 through their respective sale deeds vide Ext.3 and Ext.X and when, the plaintiff and defendant both have interest in the suit properties and when, the unchallenged Hal RoR of the suit properties vide Ext.8 stands jointly in the names of the plaintiff and the defendant and when, the parties to the suit are not 'pot pattedars', but, they are the joint pattedars and when, the plaintiff is eagerly interested to be a 'pot pattedar' for payment of rent separately in her name in respect of her purchased property from Sabik suit Plot No.1067 after partition and when, there is no material in the record to show about the division of the suit properties between the plaintiff and defendant, then at this juncture, in view of the propositions of law enunciated in the ratio of the aforesaid decisions, it cannot be held that, the suit for partition filed by the plaintiff being a stranger to the defendant's family against the defendant is not maintainable under law, as the plaintiff has right to initiate a suit for partition against the defendant in respect of the jointly recorded suit properties.



25. As per the discussions and observations made above, when it is held that, the plaintiff and defendant are the joint owners of the suit properties covered under the Hal RoR vide Ext.8 and when, the suit properties have not been divided/partitioned between the plaintiff and defendant, through any metes and bounds partition and the revenue record thereof vide Ext.8 had/has been continuing jointly in their names and when, they(plaintiff and defendant) are the purchasers of the parts of the suit properties through their respective sale deeds vide Ext.3 and Ext.X, then at this juncture, it cannot be said that, there was not any cause of action for the plaintiff to file the suit for partition vide C.S. No.1177 of 2011 in respect of the suit properties against the defendant. Because, the claim of partition creates recurring cause of action, so long as property remains joint.

On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:-

(i) In a case between *Shri Narender Nath vrs. Krishna Gupta and others* : reported in *2018(1) CCC(Delhi)-185(Para-9)* that,

No limitation for filing a suit for partition. Because, law does not prescribe any fixed time period, in which, a suit for partition must be filed by one joint owner against the other.

(ii) In a case between *Rajendra Kumar Bose vrs. Brojendra Kumar Bose* : reported in *AIR 1923 Calcutta-501* that,



For instituting a suit for partition, demand is not a condition precedent. A demand for partition is not necessary for the institution of a suit for partition.

(iii) In a case between *Tikam Chand Lunia vrs. Rahim Khan Ishak Khan and others* : reported in *AIR 1971(Madhya Pradesh)-23* that,

Every co-owner has a legal right to have the joint properties partitioned. Mere reluctance or some inconvenience of other co-owners is not by itself sufficient to take away the said right.

(iv) In a case between *Manohar Lal Behari vrs. Onkar Das alias Omkar Dass and others* : reported in *AIR 1959(Punjab)-252* that,

The right to enforce a partition is a continuous right.

(v) In a case between *Arjuna Mohapatra. vrs. Dhaneswar Mohapatra and others* : reported in *2013(4) CCC-126 Odisha* that,

Claim for partition creates a recurring cause of action.

(vi) In a case between *Kakumanu Pedasubhaya and another vrs. Kakumanyu Akkamma and another* : reported in *AIR 1958(S.C.)-1042* that,

A suit for partition is a suit for property. The maxim of *actio personalis moritur cum persona* applies to the same, which means a person's right to action dies with the person, has no application to a suit for partition.

26. When it is held above that, the parties are the joint owners of the suit properties recorded jointly in their names, then at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions, it cannot be held that, the suit for partition vide C.S. No.1177 of 2011 filed by the plaintiff(respondent) against the defendant (appellant) is not maintainable under law.



For which, in other words, it is held that, the suit for partition filed by the plaintiff in respect of the jointly recorded suit properties against the defendant is maintainable under law.

27. When, it is the concurrent findings of the learned trial court and the learned 1st appellate court that, the suit for partition filed by the plaintiff in respect of the suit properties against the defendant is maintainable under law and the parties to the suit are entitled to get half share each from the suit properties, then at this juncture, by applying the propositions of law enunciated in the ratio of the aforesaid decisions indicated in Para No.23 of this judgment, the question of interfering with the same through this 2nd appeal filed by the appellant(defendant) does not arise. For which, the decisions relied on behalf of the appellant/defendant indicated in Para No.16 of this judgment for making the suit of the plaintiff(respondent) vide C.S. No.1177 of 2011 for partition not maintainable has become inapplicable to this suit/appeal at hand on facts as discussed above.

28. So far as the Interlocutory Application vide I.A. No.1312 of 2022 under Order-41, Rule-27 of the C.P.C., 1908 filed on behalf of the appellant(defendant) for adduction of additional evidence, at this 2nd appellate stage, in order to prove the documents, i.e., RSD No.3278 dated 04.07.1992 and E.C. is concerned,



in this 2nd appeal at hand, there is not the situation that, the Court cannot pronounce the judgment in this 2nd appeal without the above so-called additional evidence sought to be adduced, as there is no pleadings on behalf of the appellant/defendant in support of the same.

The law also does not provide any vested right to a party for adducing additional evidence at the appellate stage. Because, an appeal is ordinarily to be decided on evidence adduced before the learned trial court and the appellate court is not expected to embark upon a fresh fact finding exercise or permit production of additional evidence as a matter of routine.

Therefore, Interlocutory Application vide I.A. No.1312 of 2022 filed by the appellant(defendant) in order to allow him (appellant/defendant) to adduce the additional evidence cannot be allowed.

29. On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:-

(i) In a case between *Smt. Ramkuriya Bai vs. Smt. Kachra Bai(dead) and others* : reported in *2017 (Suppl.) Civil Court Cases-141(M.P.)* that,

When, there is not the situation in the appeal that, Court cannot pronounce judgment without additional evidence, then application under Order-41, Rule-27 of the C.P.C. cannot be allowed.



(ii) In a case between *Iqbal Ahmed(dead) by LRs. and another vs. Abdul Shukoor* : reported in *2025(4) Civil Court Cases-328(S.C.)* that,

In absence of necessary pleadings in that regard, permitting a party to lead additional evidence under Order-41, Rule-27 of the C.P.C. would result in an unnecessary exercise and such evidence, if led, would be no consequence as it may not be permissible to take such evidence into consideration.(Para-8)

(iii) In a case between *Gobind Singh and others vs. Union of India and others* : reported in *2026(1) CCC-164(S.C.)* that,

Parties do not possess any vested or automatic right to seek admission of additional evidence at appellate stage. Because, appeal is ordinarily to be decided on evidence adduced before Trial Court. Appellate Court is not expected to embark upon a fresh fact finding exercise or permit production of additional evidence as a matter of routine.

30. When, it is not the situation in this 2nd appeal that, this Court cannot pronounce the judgment in this 2nd appeal without the proposed additional evidence and when, there is no pleadings on behalf of the appellant(defendant) in support of the proposed additional evidence, then at this juncture, the I.A. No.1312 of 2022 under Order-41, Rule-27 of the C.P.C. filed by the appellant/defendant is not entertainable under law. Therefore, the I.A. No.1312 of 2022 filed by the appellant/defendant is dismissed and disposed of finally.

As such, this 2nd appeal filed by the appellant/defendant has no merit. The same is liable to be dismissed.



31. Hence, this 2nd appeal filed by the appellant(defendant) is dismissed on contest against the respondent(plaintiff), but, without cost.

The judgments and decrees passed by the learned trial court as well as learned 1st appellate court in C.S. No.1177 of 2011 and RFA No.08 of 2016 respectively are confirmed.

(A.C. Behera)
Judge

Orissa High Court, Cuttack

The 30th of April, 2026/ Jagabandhu, P.A.