

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**C.M.P.No.1 of 2022**

*Bijaya Kumar Mahapatra.* ....

***Petitioner(s)***

Mr.B.Routray, Sr. Advocate

*-versus-*

*Anita Mahapatra & Ors.* ....

***Opposite Party(s)***

Mr.J.K.Mishra-2, AGA

**CORAM:  
JUSTICE BISWANATH RATH**

**ORDER  
24.02.2022**

**Order No.**

03.

1. Heard learned counsel appearing for the parties.
2. During course of submission, Mr.Routray, learned senior counsel appearing for the petitioner bringing to the notice of this Court that in the meantime the petitioner approached the trial court by moving an application under Order 39, rule 4 of the Code of Civil Procedure and involving the outcome thereon, the petitioner has already filed an appeal pending before the Additional District Judge, Kodala in F.A.O. No. No.1 of 2022 seeks withdrawal of this C.M.P. with a direction to the Additional District Judge, Kodala to at least complete the proceeding in F.A.O.No.1 of 2022 within a stipulated period.
3. It is keeping the above in view, this Court while disposing the writ petition as withdrawn observes on production of certified copy of this order before the Additional District judge, Kodala, the Additional District Judge, Kodala shall do well in disposing the F.A.O.No.1 of 2022 at least within a period of two months. Since this order is passed in presence of the opposite parties herein, this Court also directs the opposite parties to appear in the trial court along with certified copy of this order on 7<sup>th</sup> March, 2022. It is made clear that considering the F.A.O. No.1 of 2022 the lower appellate court shall give due regard to

the plea taken in the application under Order 39, rule 4 of the Code of Civil procedure.

***(Biswanath Rath)***  
***Judge***

*Sks*

