

IN THE HIGH COURT OF ORISSA AT CUTTACK

MA No.446 of 2002

**Dhusa @ Dushasan Naik &
Others**

....

Appellants

-versus-

Choudhury Naik

....

Respondent

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

12.07.2022

Order No

- 4.** 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. P.K.Swain, learned counsel appearing on behalf of Mr. Mohanty, learned counsel for the Appellant.
3. In spite of due service of notice, nobody has entered appearance for the sole respondent.
4. The Appellants are aggrieved by the order dated 20.02.2002 passed by the learned District Judge, Keonjhar in M.J.C. No.20/2002.
5. It is submitted that in spite of the order of injunction passed against the appellants, when the appellants raised the paddy crops, the aforesaid MJC was filed under Order 39, Rule 2 (a) of C.P.C.
6. In consideration of the appeal, learned District Judge has passed the impugned order directing the appellants to be detained in civil proceeding for seven days.
7. It is submitted that even though the respondent failed to

indicate the date of passing of the order of injunction and the date when the present appellants raised the paddy crops while giving his evidence in the aforesaid proceeding, but learned Court below without proper appreciation of the same passed the impugned order.

8. It is also submitted that the learned Court below while passing such an order did not take into consideration the discrepancy in the evidence of the sole respondent.

9. Since nobody has entered appearance for the sole respondent in spite of notice, this Court has no option than to accept the contention raised by the appellants. Accordingly, this court is inclined to quash the order dated 20.02.2002 passed in M.J.C Case No.20/2001 by the learned District Judge, Keonjhar and the same is hereby quashed.

10. Accordingly, the MA is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat