

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.45 of 2022

Bijay Kumar Swain and another* *Petitioners

Mr. S.P. Mishra, Sr. Advocate

-versus-

Bisweswar Mahanty and Others* *Opposite Parties

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

1.02.2022

Order No.

- 01.
1. The matter is taken up through video conferencing mode.
 2. Heard Mr. S.P. Mishra, learned Senior Counsel for the Petitioners.
 3. The subject matter of challenge in the present petition is order dated 23rd December, 2021 of the learned Civil Judge (Senior Division) Soro passed in CS No.1032 of 2005.
 4. Mr. Mishra, learned Senior Counsel prays for withdrawal of the present petition with liberty to pursue the learned trial court by filing a fresh petition under Order 26, Rule-9 C.P.C. He agrees to the proposition that possession of a party cannot be found or determined within the scope of Order 26 Rule 9 of the CPC.
 5. The CMP is disposed of as withdrawn granting liberty to the Petitioner to file a fresh petition as prayed for.

6. If such petition is filed within a week from today, the same shall be considered and disposed of by the learned Trial Court in accordance with law without being influenced by the present impugned order dated 23rd December, 2021, within two months from the date of its filing.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, in the manner prescribed vide Court's Notice No.514 dated 7th January, 2022.

(**B.P. Routray**)
Judge

M.K.Panda

