

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.111 of 2022

Om Prakash Barma

....

Petitioner(s)

Mr. U.K. Samal,
Advocate

-versus-

Rohita Kumar Mishra

....

Opposite Parties

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
15.02.2022**

Order No.

01. 1. This C.M.P. is filed challenging the impugned order dated 11.10.2021 passed by the learned Addl. Dist. Judge, Titilgarh in FAO No.5 of 2021.
2. In advancing his submission Mr. Samal, learned counsel for Petitioner contended that there is no grant of injunction by the trial court, when the Petitioner was moving ahead with the construction of the building involved herein. By the time of disposal of appeal it was almost in completing stage. It is alleged that for this fact has not been considered by the trial Court, there is illegal disposal of the appeal by the trial court.
3. Considering the submission made by Mr. Samal, learned counsel for Petitioner and vetting the impugned order, this Court nowhere finds, such a submission was brought to the notice of the appellate court for considering the development taken place during pendency of the appeal. In the process, this Court observes, if any

such point is not advanced, there is no scope for consideration of not existing materials and therefore, challenge to the order of the court below on the premises of such ground has no foundation. If the Petitioner has any other option, he may avail the same.

2. With the above observation and direction the C.M.P. stands disposed of.

(Biswanath Rath)
Judge

Ayaskanta Jena

