

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.170 OF 2022

Manorama Das

....

Petitioner(s)

Mr.S.K.Patnaik,
Advocate

-versus-

Malaya Ranjan Rath

....

Opposite Party(s)

CORAM:
JUSTICE BISWANATH RATH

ORDER
10.03.2022

Order No.

01.

1. Heard submission of Mr.Patnaik, learned counsel appearing for the petitioner.
2. Undisputedly the suit involves a great dispute as to the ownership of the plaintiff which finding ultimately has to come by way of disposal of the suit. Further considering the allegation of the petitioner plaintiff that opposite party is holding the possession of the house, the trial Court has come to observe through Paragraph-8 running Page-47 of the brief that the opposite party is only undertaking some repairing works. This aspect has also gone into by the Appellate Authority and the Appellate Authority has thus confirmed the finding of the trial Court. For the above recording of the Trial Court this Court finds no foundation in the allegation of the petitioner that opposite party is undertaking an exercise of new construction. This Court observes in the event there is any exercise of new construction petitioner may bring application under Order 39 Rule 4 for variation in the impugned order. For the concurrent finding

of fact of issue of injunction, this Court finds no scope for interfering in such orders at this stage.

3. It is at this stage of matter Mr.Patnaik, learned counsel for the petitioner requests this Court at least to target the suit. In the event pleading already complete and there is no obstruction by way of stay operating trial of the suit, issued by Higher Forum, this Court directs the Civil Judge (Senior Division), Phulbani to conclude Civil Suit No.37 of 2019 at least within a period of six months from the date of communication of certified copy of this order.

4. With this observation and direction, the CMP stands disposed of.



S.P. Dash