

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.180 of 2022

Sanjukta Mohanty

....

Petitioner(s)

Mr. N. Lenka,
Advocate

-versus-

Ashok Kumar Jena & Ors.

....

Opposite Parties

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
11.03.2022**

Order No.

- 01.
1. Undisputedly there is an application for providing police service for implementing the interlocutory order passing in disposing of an application U/o.39 Rule 3 of C.P.C. and pendency of application U/o.39 Rule 1 & 2 of C.P.C. required to be disposed of on contest.
 2. Mr. Lenka, leaned counsel for the Petitioner complains that in spite of the appearance of the Opposite Parties therein, neither there is filing of objection nor participation in the final hearing in the I.A. pending and the Opposite Parties therein remain busy in seeking adjournments, the trial court also merely grants adjournments. Without entering into any such controversy at this stage, this Court finds, the application U/o.39 Rule 1 & 2 of C.P.C. bearing I.A. No.290 of 2020 was filed long back and for the nature of dispute involving the application the trial court should have attempted to

resolve such dispute involving I.A. No.290 of 2020 at the earliest. Once there is already appearance of the Opposite Parties involving the application U/o.39 Rule 1 & 2 of C.P.C., the trial Court shall do well in disposing the same finally as early as possible and not more than six weeks. This Court finds strange in the attitude of the trial court in protracting the litigation involving a measure under U/o.39 Rule 1 & 2 of C.P.C. Coming back to the impugned order being passed involving an application U/o.39 Rule 3 of C.P.C. *ex parte* and without notice to the contestants, this Court observes, in the event the trial court finds, there is tactics prolonging such litigation by the Opposite Parties by not filing objection and not allowing the trial court to proceed with such proceeding, there was no obstruction on the part of the trial court in confirming the order passed in the application U/o.39 Rule 3 of C.P.C. by terminating the proceeding U/o.39 Rule 1 & 2 of C.P.C. This Court finds strange in the attitude of the trial court and therefore, hopes and expects, the trial court will be more vigilant in disposing such applications. Further for the consideration of the application U/o.39 Rule 3 of C.P.C. during pendency of an application of U/o.39 Rule 1 & 2 of C.P.C., application U/s.151 of the C.P.C. in the guise of U/o.39 rule 7 of C.P.C at this stage has no scope for consideration as such a contingency arises only, if there is finality to the proceeding involving an application U/o.39 Rule 1 & 2 of C.P.C. This Court, therefore, is not inclined to interfere in the impugned order. It is at this stage of the matter, Mr. Lenka, learned counsel for the Petitioner requested for expediting the hearing of the petition U/o.39 Rule 1 & 2 of C.P.C. at least.

3. Considering this request of Mr. Lenka, learned counsel and as this Court finds, there is unnecessary delay in disposing the I.A. No.290 of 2020 involving an application U/o.39 Rule 1 & 2 of C.P.C., this Court directs, in the event there is no filing of objection to such application by the objectors, the trial Court shall do well in granting one week time at least for filing objection from the date of submission of a copy of this Court's order and thereafter finally concluding the proceeding involving I.A. No.290 of 2020 within a period of two weeks.

4. The C.M.P. stands disposed of with the above order.

(Biswanath Rath)
Judge

Ayaskanta Jena

