

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.188 of 2022

Rashmita Dehury

....

Petitioner(s)

Mr.S.K.Jena, Advocate

-versus-

*Secretary, Revenue & Disaster
Management Deptt. & Ors.*

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
14.03.2022**

Order No.

1.

1. Heard Mr.Jena, learned counsel appearing for the petitioner.

2. This Civil Miscellaneous Petition involves rejection of an application for dispensation of service of notice on public authority in considering the application under order 39 rule 3 of the Code of Civil Procedure arising out of Order 39 Rule 1 and 2 of the Code of Civil Procedure has been declined. Even though a stand is taken by Mr.Jena, learned counsel for the petitioner that for the party having urgency in the matter of injunction, there is requirement of consideration of petition under Section 80(2) of the Code of Civil Procedure. It is alleged the trial court failed to consider urgency has come to reject such application.

3. This Court here considering the urgency involved finds in the event notice is issued in the Civil Miscellaneous Petition, the hearing of application under order 39 rule 3 as well as application under order 39 rule 1 and 2 of the Code of Civil Procedure will be lingering. Keeping in view and the urgency shown, this Civil Miscellaneous Petition stands disposed of permitting the petitioner to file an application by 16.03.2022 before the trial court for taking out notice on the

application under order 39, rule 1 and 2 and Order 39, rule 3 of the Code of Civil Procedure, on the public authority involved there by special messenger, in such event application shall be allowed, the trial court shall assess the cost of special messenger on the same day directing petitioner to deposit the special messenger cost on the next date and notice will be issued through the special messenger by 19.03.2022 fixing appearance to 21.3.2022 and the application under Order 39 Rule 1 and 2 of the Code of Civil Procedure shall be taken up for consideration on 23.03.2022.

4. With this observation, the Civil Miscellaneous Petition stands disposed of.

(Biswanath Rath)
Judge



Sks