

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.353 of 2019

Chintamoni Swain

....

Petitioner(s)

Mr. D. Mohapatra,
Advocate

-versus-

Purustam Swain & Ors.

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
03.03.2022**

Order No.

04.

1. Heard Mr. Mohapatra, learned counsel for Petitioner. In spite of appearance of a set of counsel on behalf of the Opposite Parties, nobody appears at the time of call.
2. This matter involves a small issue regarding rejection of an application U/s.151 of C.P.C by the trial court in continuance of the order of status quo by way of final outcome in an application U/o.39 rule 1 & 2 of C.P.C.
3. Mr. Mohapatra, learned counsel for Petitioner taking this court to the plea of the Petitioner and also reducing his request from making permanent construction of the homestead and cow-shed in course of hearing prayed for at least permitting the Petitioner to retrieve the structure existing over the disputed land by way of temporary construction.

4. This Court looking to the pleadings and prayer made in the application even though finds no infirmity in the impugned order of rejection, but however keeping in view that the suit is of the year 2019 and suit may take some time for final disposal and also looking to the prayer reduced during course of hearing and also recording the undertaking of the Petitioner through his counsel that he will not claim any equity for investment, if any and with an undertaking to vacate the disputed area in the event of adjudication in the suit against him, this Court in disposal of the Civil Miscellaneous Petition observes, in the event an application to this extent is filed in the trial court, the same shall be considered and disposed of keeping in view the undertaking provided to this Court and also recorded hereinabove, within a period of three weeks thereafter.

(Biswanath Rath)
Judge

Ayaskanta Jena