

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.358 of 2022

UCO Bank Officers Association & Anr.

Petitioner(s)
Mr.M.R.Mohapatra,
Senior Advocate with
Mr.S.S.Mohanty,
Advocate

-versus-

Sarat Chandra Singh & Ors.

Opp.Party(s)
Mr.B.S.Rayaguru,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
04.05.2022

Order No.

1

1. Mr. B.S.Rayaguru filing vakalatnama submits he has instruction to appear for defendants No. 1 to 3, the opposite parties No. 1 to 3 herein.
2. Heard learned counsel appearing for the parties.
3. The petitioners file this Civil Miscellaneous Petition being aggrieved by the order dated 25.04.2022 passed by the Senior Civil Judge, Bhubaneswar in I.A.No.1 of 2020 arising out of C.S.No.643 of 2020. It is alleged in the said order that when the trial court realized that there has been difficulty in service of notice on opposite party no.4 even though there has been service on the contesting opposite party nos.1 to 3, in the event trial court was required to give further direction for service of notice on opposite party no.4, considering the position of opposite party no.4 only to work out the direction of the court involving a Bank Account involving the plaintiff and defendant nos.1 to 3, the status quo order already in operation should not have been taken out. Mr.Mohapatra, learned senior counsel thus alleged the trial court failed appreciating the above aspects and as a consequent there is bad order required to be interfered herein.

4. It is at this stage of the matter, Mr. Rayaguru, learned counsel appearing for the opposite parties while not disputing contentions on the real dispute involving the suit in between the plaintiff and defendant nos. 1 to 3 however, brought to the notice of the Court that the case is already posted to today for hearing of the application under Order 39, rule 1 & 2 of the Code of civil procedure. Mr. Mohapatra, learned Senior Counsel for the petitioners at this stage of the matter taking this Court to page-12 of the order dated 25.4.2022 brings to the notice of the Court that the case is posted to today for the purpose of taking steps by the petitioner and unless the plaintiff is protected by allowing continuance of the interim order, there will be serious prejudice to the plaintiff. This Court prima facie satisfied with the submission of Mr. Mohapatra, learned Senior Counsel for the petitioners that not only the opposite party no. 4 was not a contesting opposite party to the I.A. as the contest involves the plaintiff and defendant nos. 1 to 3 but the case is also posted to today for the purpose of taking steps by the petitioner and it is not known when the I.A. will be finally disposed of. This Court finds surprise in the order of the trial court dated 25.04.2022 and observes in the event there was no service of notice on opposite party no. 4 as on that date, nothing prevented the trial court considering the difficulty in service of notice on opposite party no. 4 and directing the plaintiff to take out notice on opposite party no. 4 by special messenger and in no case as there did not involve any obstruction of the plaintiff, the interim order already granted could not have been dropped.

In the circumstances, this Court interfering in the order dated 25.04.2022 for the reason assigned hereinabove extend the interim direction of status quo dated 19.03.2020 for at least a period of four weeks and to undertake the exercise in disposing the application under Order 39, rule 1 & 2 of the Code of Civil Procedure at least within a period of three weeks of issuing notice on the opposite party no. 4, if necessary, by special messenger at the cost of the petitioners, by passing

such order based on affidavit upon the direction of this Court being filed by both the parties.

5. In the process and as this Court finds the suit involves contest of the plaintiff and defendant nos.1 to 3, this Court directs both the parties to file affidavit before the trial court during post lunch hour bringing to the notice of the order of this Court for its doing the needful.

6. The Civil Miscellaneous Petition stands disposed of with the observation and direction made hereinabove.

(Biswanath Rath)
Judge

Sks

