

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.366 of 2022

Manmohan Srimali

....

Petitioner(s)

Mr.D.R.Mishra, on behalf
of Mr.N.Panda, Advocate

-versus-

D.D. Developers & Ors.

....

Opp.Party(s)

CORAM:
JUSTICE BISWANATH RATH

ORDER
09.05.2022

Order No.

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1. Heard Mr.D.R.Mishra, learned counsel on behalf of Mr.Niranjan Panda, learned counsel for the petitioner.

2. At the threshold, there is prayer for adjournment of the matter. It appears, learned counsel for the petitioner deliberately wants to avoid the matter. Undisputed facts as disclosed in the C.M.P. is that parties are already in Civil Suit No. 18 of 2018 pending on the file of Civil Judge (Junior Division), Jharsuguda. The suit also as per own document at page-33, it appears this very petitioner against the very opposite party has a I.A. pending under Order 39, rule 1 & 2 of the Code of Civil Procedure with the following prayer:

“It is therefore prayed that the partners of the firm, their servants, friends, agents may kindly be restrained by way of ad-interim temporary injunction from disturbing the peaceful possession of the petitioner from the schedule A land and house till the disposal of the suit, for which act of your kindness, the petitioner shall ever pray.”

3. The Civil Miscellaneous Petition involves the following prayer:

“That, the petitioner therefore prays that this Hon’ble Court may graciously be pleased to admit this petition.

Issue notice to opposite parties.

By considering the facts and grounds stated above the opposite party No.1 i.e. the partners of the firm, their servants, friends, agents may kindly be restrained by way of Permanent Injunction from disturbing the peaceful possession of the

petitioner from the aforesaid land and house till disposal of the Writ Application.

And may pass any other appropriate order/orders, direction/ directions as deem fit and proper in the interest of justice.

And for this act of kindness the petitioner shall as in duty bound ever pray.”

4. This Court considering suit on the self same issue and pendency of an injunction petition for the own disclosure of the plaintiff finds there is not only sheer abuse of process and there is all deliberate attempt for wasting of Court’s time for unnecessarily making a prayer already involved in I.A. in the pending suit. Considering working experience with the counsel for the petitioner, the attempt cannot also be construed to be an inadvertent one.

5. In the circumstance, while deprecating the conduct of learned counsel in bringing such Civil Miscellaneous Petition and wasting the time of the High Court unnecessarily, this Court imposes a cost of Rs.20,000/- (Rupees twenty thousand) on the petitioner to be deposited in Red Cross Fund of the Jharsuguda District within a period of two weeks hence. Unless the cost is paid within the aforesaid time, there shall recovery of the amount under the provision of the O.P.D.R. Act.

(Biswanath Rath)
Judge

Sks