

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.440 OF 2022

M/s.Swastik Stevedores Pvt. Ltd.

Petitioner

Mr.B.Baug, Adv.

-versus-

Indian Farmers Fertiliser Cooperative Ltd. & ors.

Opposite Party(s)

Mr.S.Mishra, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
18.5.2022**

**Order
No.**

1. Heard learned counsel for the Petitioner.
2. It is alleged by the learned counsel for the Petitioner that even though the trial court granted interim protection, after the Plaint got rejected on the Application under Order 7 Rule 11 of C.P.C., the Petitioner preferred an Appeal. In the Appeal, Petitioner filed an Application under Order 39 rules 1 & 2 of C.P.C. along with Order 39 Rule 3 Application.
3. Taking this Court to the order-sheet at Annexure-8, Mr.Baug, learned counsel for the Petitioner alleged that even though the Appeal has been admitted and the order dated 6.5.2022 even disclosed admission of the I.A. but there has been no order on the Application under Order 39 rule 3 of C.P.C. and the case is now posted to 23.6.2022. It is claimed, if in the meantime, any action taken involving tender involved, all these Applications will become infructuous.
4. Considering the allegation made and as this Court finds, on admission of the Appeal, nothing prevented the District Judge to pass order in accordance with law on the Application under Order

39 Rule 3 of C.P.C. and should not have merely admitted such Application. This Court in disposal of the C.M.P. observes, in the event the Petitioner moves an Application for expediting hearing of the Application under Order 39 Rule 3 of C.P.C. and a decision thereon, the same shall be considered and order, as appropriate, shall be passed at an early date even in vacation court.

5. The CMP stands disposed of accordingly.
6. Issue urgent certified copy.

(Biswanath Rath)
Judge

M.K.Rout

