

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.287 OF 2021

Santosh Kumar Patanayak @ Pattnaik & anr.

Petitioners

Mr.S.P.Mishra, Sr. Adv.

-versus-

M/s.Sri Mandir through Umasankar Mohanty & anr.

Opposite Parties

Mr.M.Mohanty, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
11.1.2022**

**Order
No.**

06.

1. This matter is taken up through video conference mode.
2. Heard learned counsel for the Parties.
3. Hearing the submissions made and looking to the concurrent finding of fact on the issue granting injunction against the Defendant till 20.10.2022, this Court finds, there is no scope for interfering in such orders. Mr.Mishra, learned Senior Counsel appearing for the Petitioners however submits that the Plaintiffs should not be allowed to enjoy the injunction having admitted to be tenants for non-payment of rent, electricity and water charges involving the disputed house.
4. Mr.Mohanty, learned counsel for the O.Ps. however disputes such contention and claims that the recording of the trial court establishes his client going on clearing such dues.
5. For the nature of dispute, this Court without delving into such dispute however observes a tenant though has a right to claim

not to be disturbed during period of tenancy but that always subject to his working out with terms and conditions including clearing of rent and other statutory dues if any. In this context this Court observes, there is ample scope for making such claim in exercise of power under Order 39 Rule 4 of C.P.C. inasmuch as seeking variation of the injunction order for non-compliance of any agreed term between the tenants and the owner. If the Petitioners so advised, they may apply under the appropriate provision to the trial court for its consideration in accordance with law. The Petitioners are at liberty to raise all such pleas and file the documents for consideration of the trial court in the Application so filed. In the event the Defendant files such an Application within one week, same shall be decided giving opportunity of contest at least within six weeks. There may also be endeavour to expedite the trial by the court below.

6. With this observation, the CMP stands disposed of.

7. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the Parties may utilize a printout of the order available in the High Court's Website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Biswanath Rath)
Judge