

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 465 of 2022

**Hemant Kumar Mohanty & Petitioners
others**

Mr. S. Mantry, Advocate

-versus-

Sarita Mishra & others Opp. Parties

**CORAM:
JUSTICE M.S. SAHOO**

ORDER

31.05.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners.
3. Learned appellate court in I.A. No.01 of 2022 arising out of CMA No.04 of 2020 has observed as follows:-

"In this interim application, the petitioners have claimed that the O.Ps are going to alienate the suit property. There is no other allegation against the O.Ps is that the property in dispute is in danger of being wasted or damaged. Even there is no allegation that the O.Ps are threatening or intending to remove or disposes the petitioner from suit property. Rather, the judgment under challenge in the RFA is in favour of the O.Ps. Law is well settled that any transfer or sale during pendency of the suit is guided by the doctrine of lis-pendense. In such circumstances, I am not inclined to grant any exparte injunction without giving opportunity of hearing to the O.Ps. Hence, issue notice to the O.Ps fixing 21.06.2022 for reappearance and filing show cause why the relief sought for by the

petitioners shall not be granted. Further, he petitioners are at liberty causing service of notice on the O.Ps through special messenger at their cost for early hearing of the I.A. petition. The petitioners are directed to file requisites for service of notice on both ways as early as possible.”

4. Learned counsel for the petitioners fairly submits that he may be permitted to withdraw the petition so as to argue the matter on the next date of hearing i.e. on 21.06.2022 regarding the interim prayer made before the learned appellate court.

5. Accordingly, the CMP is disposed of as withdrawn.

It is clarified that this Court has not expressed any opinion on the merit of the case in any manner whatsoever.

Issue urgent certified copy as per rules.

The order be uploaded.

(M.S. Sahoo)
Vacation Judge