

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 487 OF 2022

Priyadarshi Baral

Petitioner

Mr. Budhiram Das, Advocate

-versus-

Raghunath Baral and another

.... ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
21.06.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 23rd April, 2022 passed in I.A. No.18 of 2022 (arising out of F.A.O. No.25 of 2022), whereby learned District Judge, Puri refused to entertain an application under Order XXXIX, Rule 3 of C.P.C. filed in I.A. No.18 of 2022.
3. It is submitted by Mr. Das, learned counsel for the Petitioner that assailing the order dated 31st March, 2022 passed by learned Civil Judge (Senior Division), Pipili in I.A. No.71 of 2021 (arising out of Civil Suit No.181 of 2021), the Petitioner has filed F.A.O No.25 of 2022. Along with the appeal memo, the Petitioner has also filed I.A. No.18 of 2022 under Order XXXIX Rules 1 and 2 C.P.C. Since the Opposite Parties are making preparation for construction over the suit land, the Petitioner also filed an application under Order XXXIX Rule 3 C.P.C. to dispense with service of notice on the Opposite Parties and to take up the I.A. No. 18 of 2022 for ad-interim order of injunction. Without recording any reason whatsoever,

learned District Judge, Puri rejected the said petition under Order XXXIX Rule 3 C.P.C. holding that there is no urgency for grant of ad-interim order of injunction.

4. Mr. Das, learned counsel for the Petitioner submits that since the Opposite Parties taking advantage of the impugned order are trying to make construction over the suit land, the Petitioner will be highly prejudiced, if the I.A. for injunction is not taken up at an early date. Hence, he prays for setting aside the impugned order and to direct learned District Judge, Puri to take up the I.A. No.18 of 2022 at an early date.

5. Taking into consideration the submission made by Mr. Das, learned counsel for the Petitioner, this Court feels that the Opposite Parties should be given an opportunity of hearing before any order passed in I.A. No.18 of 2022.

6. Accordingly, this Court without expressing any opinion on the merits of the case of the Petitioner, disposes of this CMP with a direction that in the event the Petitioner makes an application to take out notice on the Opposite Parties by Special Messenger at his cost within a period of one week hence, learned District Judge, Puri shall do well to allow the same and also to make an endeavour to dispose of I.A. No. 18 of 2022 in accordance with law by fixing an early date of hearing.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge