

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 494 of 2022

Manjulata Nayak

....

Petitioner

Mr. A.P. Bose, Advocate

-versus-

State of Odisha & another

....

Opp. Parties

Mr. R.P. Mohapatra, Addl. Govt.
Advocate

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

ORDER

02.06.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard.
3. The petitioner has challenged the order dated 05.05.2022 passed by the learned District Judge, Balasore in I.A. No.18 of 2022 arising out of RFA No.39/2021 rejecting the petition filed under Order-39 Rule-3 of the CPC.
4. It is fairly submitted by the learned counsel for the petitioner that the observation of the learned court below to the extent that even though the aforesaid factual aspect has been contended on behalf of the petitioner/appellant, no cogent material was placed on record which will go to show that the state government is taking any step for construction of a bus terminal on the suit land; would be correct but the fact remains that the petitioner has obtained the information under the RTI Act from the Tahasildar, Remuna by letter No.3773 dated 18.05.2022 (Annexure-4), which discloses the issuance of notice inviting objections for transferring of land to the Transport Department of the Government, pertaining to Khata No.432, Plot Nos.561 and 562 under Mouza-Gambharia as mentioned in the Notice dated 31.12.2021.

5. Since the land was notified to be transferred to the Department of Commerce and Transport (Transport), Odisha, learned AGA, referring the order of the learned District Judge submits that the notification is dated 31.12.2021 and it is highly unlikely that the petitioner was not aware of the same. The learned AGA by further submissions supports the order passed by the learned District Judge, Balasore.

6. Having heard learned counsel for the parties, the CMP is disposed of granting liberty to the petitioner to move the learned District Judge, Balasore for renewing his prayer under Order 39 Rule-3 of the CPC, in view of the submissions that the petitioner could collect the material only by RTI information dated 18.05.2022.

The learned District Judge, Balasore shall consider the petition in accordance with law and pass appropriate orders.

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

8. The petitioner shall have the liberty to move the learned court during vacation by convincing the learned court regarding urgency after giving notice to other side.

9. The CMP is accordingly disposed of.

Issue urgent certified copy as per rules.

The copy of the order be uploaded.

(M.S. Sahoo)
Vacation Judge