

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 518 OF 2022

Sita Sahoo

Petitioner

Mr. Amit Prasad Bose, Advocate
-versus-

Anirudha Behera

.... ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
29.06.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 30th May, 2022 passed in I.A. No.212/280 of 2022 (arising out of C.S. No.806/1078 of 2022), whereby learned Senior Civil Judge, Balasore rejected an application under Order XXXIX Rule 3 CPC.
3. Mr. Bose, learned counsel for the Petitioner submits that Civil Suit No. 806/1078 of 2022 has been filed for a declaration that she has absolute right, title and interest in respect of the Schedules 'A' and 'B' land as per the contract for purchase entered into with the successors of Rabinarayan Sahu much prior to Schedule 'E' deeds were created and for some other consequential relief including permanent injunction. Since the Defendant-Opposite Party is contemplating to alienate the suit property and create further encumbrance in the suit property, the Petitioner filed I.A. No.212/280 of 2022 under Order XXXIX Rules 1 and 2 CPC with a prayer to restrain the Plaintiff from changing the nature and character of the suit schedule land and evicting the Petitioner from the suit land and

also to restrain the Opposite Party from alienating the same or part thereof. As the Opposite Party is in hurry to alienate the property, he moved an application under Order XXXIX Rule 3 CPC to entertain the petition under Order XXXIX Rules 1 and 2 CPC by dispensing with service of notice on the Opposite Party. The said petition was rejected by a cryptic order without assigning any reason. In that view of the matter, this CMP has been filed.

4. Taking into consideration the submission made by learned counsel for the Petitioner that learned Trial Court has directed to issue notice to Opposite Party in the interim application, this Court disposes of the CMP with a direction that if the Petitioner files an application to take out notice on the Opposite Party by Special Messenger and to entertain the I.A. filed under Order XXXIX Rules 1 and 2 CPC at an early date within a period of two weeks, the same shall be considered favorably. Learned Trial Court shall also make an endeavour to take up the I.A. No.212/280 of 2022 within a period of seven days from the date of service of notice on the Opposite Party by Special Messenger and also make an endeavour to dispose of the interim application for injunction within seven days thereafter giving opportunity of hearing to the parties concerned.

5. Accordingly, this CMP is disposed of.

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

(K.R. Mohapatra)
Judge