

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP NO. 549 OF 2022

Prabhat Kumar Mohanty

Petitioner

Mr. S. Pattnaik, Advocate

-versus-

Aslam Bokhari and others

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

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
11.07.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP prays for a direction to the learned 2nd Additional Civil Judge (Senior Division), Bhubaneswar for early disposal of I.A. No.01 of 2022 (arising out of C.S. No. 338 of 2022) filed under Order XXXIX Rules 1 and 2 C.P.C.
3. Mr. Pattnaik, learned counsel for the Petitioner submits that taking into consideration the urgency in the matter, learned trial court vide order dated 16th February, 2022 passed an ex parte ad interim order of injunction and directed the Plaintiff-Opposite Party No.1 to comply with the provisions under Order XXXIX Rule 3(A) C.P.C. On receipt of the notice, the Opposite Party Nos.4 and 5 to the said I.A. have already appeared. The Opposite Party No.5 is the Petitioner in this CMP. Only because notice could not be served on the Opposite Party Nos.1, 2 and 3, the matter could not be taken up before learned trial court for which the Petitioner is seriously prejudiced as the interim order is operating being extended from time to time. It is his submission that notice in their correct address on Opposite Party Nos.1, 2 and 3 has been issued by registered post with A.D. and

thirty days has already lapsed in the meantime. However, learned trial court without treating the notice on Opposite Party Nos. 1, 2 and 3 to be sufficient is extending the interim order. Hence, this CMP has been filed.

4. Upon hearing learned counsel for the Petitioner and on perusal of the order sheet of I.A. No.01 of 2022 under Annexure-5, this Court finds that notice on Opposite Party Nos.1, 2 and 3 is not sufficient. Thus, the prayer made by learned counsel for the Petitioner cannot be considered at this stage.

5. It is, however, observed that the Petitioner (Defendant-Opposite Party No.5) if feels aggrieved by the ad interim order of injunction may work out his remedy in accordance with law.

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

(K.R. Mohapatra)
Judge

bks

