

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 579 OF 2022

Sunita Choudhary and another ***Petitioners***
Mr. Devavrat Devesh, Advocate

-versus-

State of Odisha and another ***Opp. Parties***
Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
26.08.2022

Order No.

4. 1. This matter is taken up through hybrid mode.
2. The Petitioners in the CMP seek to assail the order dated 11th February, 2022 (Annexure-8) passed by learned District Judge, Khurda at Bhubaneswar in F.A.O. No.111 of 2021, whereby the appeal filed by the present Petitioners was dismissed confirming the order dated 11th October, 2021 under Annexure-6 passed by learned 2nd Additional Senior Civil Judge, Bhubaneswar in I.A. No.94 of 2021 (arising out of C.S. No.166 of 2011) dismissing an application under Order XXXIX Rules 1 and 2 C.P.C. filed by them.
3. The dispute relates to patch of Government land, more fully, described in the Schedule-A of the plaint, which is as under:

“SCHEDULE-A

Khata No.389, Hal Plot No.615, Area Ac0.022 decimals, 30ft X 30ft out of total area Ac 1.23 decimal, Mouza- Gohala, PS- Baliana, Dist. Khurda, bounded by West-Public Road, East- Schedule-B land (belongs to plaintiff), North-Part of Plot No-615, South-part of Plot no.624 (belongs to vendor of plaintiff)” (for short ‘the Schedule-A land’).

4. Taking into consideration the dispute involved in the matter, this Court vide order dated 23rd August, 2022 directed learned State Counsel to produce the R.O.R. in respect of Khata No.389 of mouza Gohala under Baliana Tahasil in the district of Khurda.

5. Mr. Mishra, learned Additional Standing Counsel on instruction from the Tahasildar, Baliana submits that no construction over Schedule-A land is proposed to be made in near future. Hence, the Petitioners have no cause of action to file application for injunction. He, however, submits that the Petitioners may use Schedule-A land as access to the main road from Schedule-B land till disposal of the suit with a condition that, they shall not raise any construction over the said land or change the nature and character of the same.

6. In view of the submission made by Mr. Mishra, learned Additional Standing Counsel, this Court without delving into the merits of the case of the Petitioners, disposes of the CMP with a direction that status quo over Schedule-A land shall be maintained by the parties till disposal of the suit.

7. It is made clear that if the Opposite Parties propose to make any construction over Schedule-A land, they may move learned trial Court for variation of the order.

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

(K.R. Mohapatra)
Judge