

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 586 OF 2022

Odisha Industrial Infrastructure Development Corporation and another ***Petitioners***

Mr. Pradipta Ku. Mohanty, Senior Advocate
being assisted by Mr. Pronoy Mohanty, Advocate

-versus-

M/s Odisha Television Ltd. and another ***Opp. Parties***

Mr. Banshidhar Baug, Advocate
(For Opposite Party No.1)

**CORAM:
JUSTICE K.R. MOHAPATRA**

ORDER
28.07.2022

Order No.

2.
 1. This matter is taken up through Hybrid mode.
 2. Petitioner in this CMP seeks for a direction to transfer FAO No.115 of 2020 to a competent Court for early disposal of the same.
 3. It is submitted by Mr. Mohanty, learned Senior Advocate appearing for the Petitioners that FAO No.115 of 2020 was initially filed under Order XLIII Rule 1 (r) CPC before learned District Judge, Khordha at Bhubaneswar. Learned District Judge, vide order dated 21st January, 2021, transferred the said appeal to the Court of learned Additional District Judge-cum-Special Judge CBI-II, Bhubaneswar for disposal in accordance with law. The Presiding Officer of that Court retired on 31st December, 2021 and thereafter the matter is not being taken up because of absence of PO. Due to pendency of the appeal, the Petitioners are seriously prejudiced. Hence, this CMP has been filed.

4. Mr. Baug, learned counsel for the Opposite Party No.1 submits that the appeal was transferred to the Court of ADJ-cum-Special Judge CBI-II, Bhubaneswar in exercise of power under Section 24(1)(a) of CPC. Section 24(1)(b) of CPC provides for withdrawal of any suit, appeal or other proceeding pending in any Court subordinate to try or dispose of the same; or (ii) transfer the same for trial or disposal to any Court subordinate to it (Court of District Judge) and competent to try or dispose of the same; or (iii) retransfer the same for trial or disposal to the Court from which it was withdrawn. Sub-section (3) (a) of Section 24 CPC provides that for the purpose of this section, Courts of Additional and Assistant (District) Judges shall be deemed to be subordinate to the District Court.

4.1 In that view of the matter, the Petitioners should move an application before learned District Judge under Section 24 CPC to withdraw the case to that Court or to transfer it to any competent Court for early adjudication.

5. In view of the submissions made by learned counsel for the parties, this Court disposes of the CMP with an observation that the Petitioners, if so advised, may move an application under Section 24 of CPC before learned District Judge, Khordha at Bhubaneswar for transfer of FAO No.115 of 2020 along with IA No.1 of 2020 pending in the Court learned Additional District Judge-cum-Special Judge CBI-II, Bhubaneswar to any competent Court for early adjudication of the appeal.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge