

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 653 OF 2022

Bijay @ Amulya Mahunta ***Petitioner***
Mr. Samarendra Bahadur, Advocate

-versus-

Harish Chandra Rout and others ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
26.08.2022

Order No.

2. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 21st January, 2022 (Annexure-1) passed by learned District Judge, Bhadrak in I.A. No.52 of 2021 (arising out of F.A.O. No.73 of 2021) pending before him.
3. Mr. Bahadur, learned counsel for the Petitioner submits that C.S. No.157 of 2021-I has been filed by the Opposite Party No.9 for partition and other ancillary relief. I.A. No.22 of 2021 was filed therein by the Opposite Party Nos.1 to 6 to restrain the present Petitioner and proforma Opposite Party Nos.7 to 12 from entering upon the suit land and creating disturbance in their possession. Said application was disposed of vide order dated 15th September, 2021 directing the parties to maintain status quo over the suit land. Assailing the same, the Opposite Party Nos.1 to 6 have filed F.A.O. No. 73 of 2021, which is pending for adjudication before learned District Judge, Bhadrak. During pendency of the appeal, the Opposite Party Nos.1 to 6 filed an application under Section 151 C.P.C. to harvest the paddy crops,

which was allowed vide order dated 11th January, 2022 under Annexure-4 with a direction that they shall harvest the paddy crops standing over Plot Nos.987 and 1006 for the year, 2022 only and shall keep the account of harvested paddy with them and submit the same to the Court.

4. Mr. Bahadur, learned counsel further submits that there is dispute with regard to possession over the aforesaid two plots between the parties, which is yet to be ascertained and is pending for adjudication in the civil suit. Hence, direction of learned District Judge, Bhadrak at this juncture permitting the Opposite Party Nos.1 to 6 to harvest the paddy crops, is not sustainable in the eyes of law. Learned District Judge, Bhadrak ought to have directed a competent Revenue Officer to harvest the paddy crops and deposit the sale proceeds before Nizarat of the Court subject to further orders to be passed by the Court with regard to disbursal of the amount. Hence, the impugned order under Annexure-1 is not sustainable and is liable to be set aside.

5. In course of hearing, Mr. Bahadur, learned counsel for the Petitioner fairly concedes that pursuant to the impugned order under Annexure-1, paddy crops have already been harvested. But, a similar nature of petition has been filed before learned District Judge, Bhadrak for the agricultural year 2022. If similar order is passed on that petition, it will certainly prejudice the Petitioner.

6. Taking into consideration the submission made by learned counsel for the Petitioner, this Court finds that adjudication of the CMP in the facts and circumstances of the case will be an academic one.

7. Hence, this CMP is disposed of with an observation that in the event, similar nature of application is filed for the agricultural year, 2022, the Petitioner is at liberty to raise the aforesaid grievance and in that event, learned District Judge, Bhadrak shall consider the same and pass necessary orders thereon, giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge



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