

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.678 OF 2022

Surekha Nayak

....

Petitioner

Mr. Dwarika Prasad Mohanty, Advocate

-versus-

Bhabani Sankar Das and another

....

Opp. Parties

Miss Deepali Mahapatra, Advocate

(For Opp. Party No.1)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

17.11.2022

Order No.

I.A. No. 1089 of 2022

- 03.
1. This matter is taken up through hybrid mode.
 2. This is an application filed by Opposite Party No.1 for modification of the order dated 23rd August, 2022 by which the CMP is disposed of.
 3. Miss Mahapatra, learned counsel for Opposite Party No.1 (applicant in the I.A.) submits that an application for restoration of power supply was filed during pendency of I.A. No.1 of 2022 filed under Order XXXIX Rules 1 and 2 C.P.C. The petition under Order XXXIX Rules 1 and 2 C.P.C. and the petition for restoration of power supply were considered on the very same day. As this Court while disposing of the CMP has observed that after disposal of I.A. No.1 of 2022, learned Court could not have entertained any interim application filed therein, the petition filed for restoration of power supply should have been registered as separate misc. case in terms of Rule 431 of GRCO (Civil). Unless the petition is registered as separate misc. case, further complication may arise. She, however, submits that

the Opposite Party No.1 has no objection to the direction made in the order dated 23rd August, 2022 by which the CMP was disposed of.

4. Mr. Mohanty, learned counsel for the Petitioner submits that the Petitioner has no objection if the petition for restoration of power supply is registered as separate misc. case. But, the direction of this Court made in the order dated 23rd August, 2022 by which the CMP was disposed of should be carried out in its letter and spirit.

5. Taking into consideration the submissions made by learned counsel for the parties, the I.A. is disposed of with a direction that learned Civil Judge (Junior Division), 1st Court, Cuttack shall examine the matter and register the petition for restoration of power supply as separate misc. case, if it comes under Rule 431 of GRCO (Civil) and proceed with the matter accordingly.

6. It is made clear that this Court has not expressed any opinion on the merits of the petition for restoration of power supply.

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

(K.R. Mohapatra)
Judge

bks