

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 746 OF 2022

Namita Kumari Tripathy ***Petitioner***
Mr. Ayushman Mahanta, Advocate
-versus-
Amitalata Moharana ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
20.09.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 27th July, 2022 (Annexure-6) passed in I.A. No. 39 of 2022 arising out of E.P. No. 128 of 2014, whereby learned Civil Judge (Senior Division), Bhanjanagar rejected an application under Order XXI Rule 97 C.P.C. filed by the Petitioner.
3. In course of hearing, Mr. Mahanta, learned counsel for the Petitioner submits that an order passed in an application under Rule 97 of Order 21 C.P.C. is only made under Order 21 Rule 98 C.P.C. This is an appealable order under Rule 103 of Order 21 C.P.C. Hence, he prays for withdrawal of the writ petition and to file a properly constituted appeal. He further submits that a direction may be made to condone the delay in filing the appeal.
4. Taking into consideration the submission made by learned counsel for the Petitioner, this Court without expressing any opinion on the same disposes of the CMP as withdrawn with an observation that in the event the appeal is filed within a period of two weeks hence along with certified copy of this order, learned

appellate Court shall do well to consider the delay in filing the appeal, if any, sympathetically taking into consideration that the CMP was pending before this Court since 10th August, 2022 till date.

5. Certified copy of the impugned order shall be returned to the learned counsel for the Petitioner on substitution of attested photocopy thereof.

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

(K.R. Mohapatra)
Judge

bks

