

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 750 OF 2014

Mirza Alamgir Baig

.... Petitioner

Mr. P.K. Rath, Advocate

-versus-

Mirza Iqbal Baig and others

.... Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

12.01.2023

Order No.

6. 1. This matter is taken up through hybrid mode.
2. This CMP has been filed assailing the order dated 15th May, 2014 (Annexure-1) passed by learned 2nd Additional Civil Judge (Senior Division), Cuttack in I.A. No.1 of 2014 (arising out of C.M.A. No.1780 of 2014 filed in T.S. No.161 of 1984), whereby an application under Order XXXIX Rules 1 and 2 C.P.C., has been rejected.
3. Mr. Rath, learned counsel for the Petitioner submits that since this Court while issuing notice, has granted an interim order, the same should continue till disposal of the petition for restoration of the suit.
4. Since an application for restoration of the suit is pending, there is no suit pending in the eye of law. Hence, this Court is not inclined to entertain the prayer made by learned counsel for the Petitioner. As such, an application under Order XXXIX Rules 1 and 2 C.P.C. during pendency of an application for restoration of the suit is not maintainable.

5. Accordingly, the CMP is disposed of.
6. Interim order dated 14th July, 2014 passed in Misc. Case No.697 of 2014 stands vacated.

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

(K.R. Mohapatra)
Judge

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