

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 1408 OF 2018

Srikanta Kishore Bal and others ***Petitioner***
Miss Mamata Mishra, Advocate

-versus-

Rabindranath Samal ***Opp. Party***
Mr. Kshirod Kumar Rout, Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
29.11.2022

Order No.

7. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this CMP seek to assail the order dated 10th September, 2018 (Annexure-1) passed by learned Additional District Judge, Jajpur in FAO No.35 of 2015, whereby he allowed the appeal filed by Opposite Party and reversed the order dated 24th March, 2015 passed by learned Civil Judge (Junior Division), Chandikhole in I.A. No.16 of 2015 (arising out of C.S. No.16 of 2015).
3. Miss Mishra, learned counsel for the Petitioners submits that the Petitioners are Plaintiffs in the suit. The suit has been filed by the Petitioners with a prayer for permanent injunction. Since the Petitioners are in possession over the suit land, which was purchased by their father along with the father of the vendor of Defendant, the same was jointly recorded. During consolidation operation, the suit land was exclusively recorded

in the name of the Defendant. Since the Defendant is creating disturbance in the peaceful possession of the Petitioners, the suit was filed for permanent injunction. In the meantime, R.P. No.7 of 2015 has been filed under Section 37 of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 for correction of the R.O.R., which is pending for adjudication. Since the Petitioners are in possession over the suit land, which is a homestead property, the Defendant should be restrained from entering into the suit land. Learned trial Court considering the matter from its proper prospective passed an interim order of injunction, which was reversed by learned appellate Court. Hence, this CMP has been filed.

4. Mr. Rout, learned counsel for the Opposite Party submits that the suit land has been exclusively recorded in the name of the Defendant in consolidation R.O.R. Thus, learned Appellate Court has committed no error in vacating the interim order of injunction passed by learned trial Court.

5. Since the suit land is a homestead property and there is a dispute with regard to possession over the suit land, this Court is of the considered opinion that status quo with regard to possession over the suit land should be maintained by both the parties till disposal of the suit.

6. Accordingly, it is directed that parties to the suit shall maintain status quo with regard to possession over the suit land till disposal of C.S. No.16 of 2015. Learned trial Court shall also make an endeavour for early disposal of the suit, if the

same is ready for hearing. Parties are directed to cooperate with learned trial Court for early disposal of the suit.

7. The CMP is disposed of accordingly.

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

(K.R. Mohapatra)
Judge

bks

