

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 910 OF 2022

Harihara Bhoi

.... ***Petitioner***

Mr. Sougat Dash, Advocate

-versus-

Bishnu Prasad Bhoi

.... ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
29.09.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 26th August, 2022 (Annexure-4) passed in F.A.O. No. 39 of 2021, whereby learned District Judge, Jagatsinghpur while allowing the appeal reversed the order dated 20th September, 2021 passed by learned Senior Civil Judge (LR & LTV), Jagatsinghpur in I.A. No.188 of 2018 (arising out of C.S. No.229 of 2018).
3. In course of hearing, Mr. Dash, learned counsel for the Petitioner submits that inadvertently the Petitioner could not make specific averments with regard to the portion over which the Defendant is making construction. It is his submission that in the event the construction is allowed to continue, the Plaintiff-Petitioner will be seriously prejudiced. Hence, he submits that interest of justice will be best served, if a fresh application under Order XXXIX Rules 1 and 2 C.P.C. is filed specifying the plot number, extent of land and stage of construction and prays for a direction for adjudication of the said petition on its own merit.

4. In that view of the above, the CMP is disposed of with an observation that in the event, the Petitioner files a fresh application under Order XXXIX Rules 1 and 2 C.P.C. giving the particulars of land and stage of alleged construction, learned trial Court shall do well to consider the same on its own merit giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge



ms