

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CMP No. 1130 OF 2022**

***Bijaya Kumar Pradhan @ Bijay Kumar Pradhan* .... *Petitioner***

Mr. Prasanna Kumar Rath, Advocate

*-versus-*

***Surendra Ranasingh and others* .... *Opp. Parties***

**CORAM:  
JUSTICE K.R. MOHAPATRA**

**ORDER  
25.11.2022**

**Order No.**

- 01.
1. This matter is taken up through hybrid mode.
  2. The Petitioner in this CMP seeks to assail the order dated 4<sup>th</sup> November, 2022 (Annexure-1) passed by learned Civil Judge (Senior Division), Puri in I.A. No.197 of 2022 (arising out of C.S. No.197 of 2022), whereby an application under Order XXXIX Rule 3 C.P.C. has been rejected.
  3. Mr. Rath, learned counsel for the Petitioner submits that although learned trial Court found prima facie case and balance of convenience in favour of the Petitioner holding that the land stands in the name of the Petitioner and he is in possession over the land, but failed to take into consideration that in a proceeding under Section 144 Cr.P.C., a preliminary restraint order has been passed, which has already expired due to lapse of the statutory period. Thus, there is urgency in the matter.
  4. In course of hearing, Mr. Rath, learned counsel for the Petitioner submits that interest of justice will be best served, if the Petitioner files an application for recall of the impugned order under Annexure-1 and to re-consider the petition under Order XXXIX Rule 3 C.P.C. afresh. He also prays for a

direction to consider such application in accordance with law at the earliest. He, therefore, prays for withdrawal of the CMP.

5. In view of such submission, this CMP is disposed of as withdrawn with observation that in the event, such an application is filed, the same may be considered in accordance with law at the earliest.

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

**(K.R. Mohapatra)**  
**Judge**

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