

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1158 of 2022

***Odisha Power Transmission
Corporation Ltd. (OPTCL)***

.... Petitioner

Mr. Pronoy Mohanty, Advocate

-versus-

Antaryami Malik and others

.... Opp. Parties

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

**ORDER
22.12.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this CMP seeks for a direction for early disposal of IA No.18 of 2021 (arising out of CS No.22 of 2021) pending before learned Civil Judge (Junior Division), Chandikhole.
3. It is submitted by Mr. Mohnaty, learned counsel for the Petitioner that the suit has been filed for permanent injunction. Along with the plaint, the Opposite Party No.1 filed an application under Order XXXIX Rules 1 and 2 CPC. It is his submission that in exercise of power under Order XXXIX Rule 3 CPC, learned trial Court by dispensing service of notice on Opposite Parties therein, granted an ex-parte ad interim order of injunction. The said order is continuing till date. The Plaintiff/Opposite Party No.1 has not impleaded the present Petitioner, who is a necessary party both to the suit as well as the IA. In view of the ad interim order of injunction, high tension line from Chandikhole Grid Sub-station to RTSS,

Dhanamandal for electrification of railway track could not be proceeded. Petitioner has also filed an application to be impleaded as party to the suit as well as the IA. In spite of best effort of the Petitioner, learned trial Court has neither taken up the IA for impletion of the Petitioner as a party nor has disposed of the IA No.18 of 2021. Hence, the Petitioner-Company is seriously prejudiced. In that view of the matter, Mr. Mohanty, learned counsel submits that the IA should be disposed of at an early date. It is his submission that the IA is ready to be taken up for hearing and there is no legal impediment for the same.

4. Taking into consideration the submission of learned counsel for the Petitioner, this Court, without expressing any opinion on the merit of the submission made, disposes of the CMP with a direction that in the event Petitioner moves an application for early disposal of the IA both for impletion of party as well as disposal of IA No.18 of 2021, learned trial Court shall do well to consider the same and proceed with the matter expeditiously, if there is no legal impediment, keeping in mind that the IA No.18 of 2021 has been filed under Order XXXIX Rules 1 and 2 CPC.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge