

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No. 1336 OF 2022

Shiba @ Siba Sankar Patra* *Petitioner

Mr. Manmaya Kumar Dash, Advocate

-versus-

ICICI Bank Ltd., Kolkata and others* *Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

21.12.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Order dated 14th October, 2022 (Annexure-4) passed by learned Civil Judge (Senior Division), L.R., Bhubaneswar in I.A. No.01 of 2017 (arising out of C.S. No.146 of 2017) is under challenge in this CMP, whereby learned trial Court entertaining an application for extension of order of *status quo*, posted the matter to 19th January, 2023 for further orders.
3. Mr. Dash, learned counsel for the Petitioner submits that along with the plaint, the Petitioner had filed an application under Order XXXIX Rules 1 and 2 C.P.C. in I.A. No.1 of 2017. Learned trial Court considering an application under Order XXXIX Rule 3 C.P.C. passed an *ex parte ad interim* order of injunction. The said order was continuing till 14th October, 2022. On the said date, although the Petitioner filed an application for extension of interim order, but without extending the same, learned trial Court posted the matter to 19th January, 2023 for further orders. It is his submission that once the order of status quo is granted, it should continue till disposal of the suit. In

support of his case, he relied upon the case of ***Minati Sahoo –v- Baishnab Rout and others***, reported in 93(2002) CLT 55. It is his submission that unless the interim order is extended, the residential house of the Petitioner may be put to sale by the Opposite Party-Bank. Hence, finding no other alternative, the Petitioner has filed this CMP for the aforesaid relief.

4. Considering the submission made by learned counsel for the Petitioner and on perusal of the record, this Court finds that on 14th October, 2022, I.A. was posted on which date an application for extension of *ad interim* order of *status quo* was filed. But, learned trial Court without extending the same, posted the matter to 19th January, 2023 for further orders. From 14th October, 2022 till 19th December, 2022, the Petitioner did not take any step either to modify the order dated 14th October, 2022 or for extension of the interim order before learned trial Court. It is only on 19th December, 2022, the CMP is filed and is being moved today i.e. 21st December, 2022. Since the Petitioner has remedy before learned trial Court for extension of interim order, I am not inclined to entertain this CMP.

5. Accordingly, this CMP stands dismissed.

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

(K.R. Mohapatra)
Judge