

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO.797 OF 2021

Janaki Parida

....

Petitioner

Mr.P.K.Lenka, Adv.

-versus-

Rahas Mohapatra

....

Opposite Party

None

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
4.1.2022**

Order No.

01. 1. Heard learned counsel for the petitioner.
2. Reading through the observation of the lower appellate court in the impugned order, learned counsel for the Petitioner attempted to submit that in disposing of the Application under Order 39 Rules 1 & 2 of C.P.C., the lower appellate court has almost come to have his finding on the Appeal involved and nothing is left to be decided in the Appeal. Considering the submission of the learned counsel for the Petitioner and on perusal of the impugned order, this Court finds, there has been only observation recording the finding of the trial court again in considering an application under Order 39 Rules 1 & 2 of C.P.C. either of the appellate court or of trial court. All these

observations are of limited purpose, which cannot be construed to be the finding. While declining to interfere with the impugned order this Court observes, whatever observations have been given there in the impugned order rather are the prima facie observations in considering the Application under Order 39 Rules 1 & 2 of C.P.C. and has nothing to do in the ultimate decision in the Regular First Appeal.

3. This Court however targets the R.F.A. No.15 of 2016 and directs the Additional District Judge, Jajpur Road to dispose of the Appeal as expeditiously as possible preferably within a period of six months from the date of production of certified copy of this order by the Petitioner.

3. With this observation, the CMP stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout