IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.151 of 2026
CNR No. ODHC010045302026

Aswini Kumar Rout **.....** ***Petitioner***

Represented by Adv. - Niranjan Lenka

-versus-

Bhabagrahi Rout and others **.....** ***Opposite Parties***

Represented by Adv. - Ashok Kumar Sahoo, S. Mishra, S.C. Pradhan

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
29.10.2026

Order No.

05. 1. This matter is taken up through Hybrid mode.

2. Heard learned counsel for the Petitioner as well as learned counsel for the Opposite Parties. Perused the CMP application as well as the prayer made therein.

3. By filing the present application under Article 227 of the Constitution of India, the defendant No.6 in C.S. No.83 of 2025, pending in the Court of learned Civil Judge (Sr. Div.), Kendrapara has approached this Court challenging the impugned order dated 30.10.2025 passed in FAO No.19 of 2025 by the learned Additional District Judge, Kendrapara.

4. Learned counsel for the Petitioner, at the outset, contended

that the Opposite Parties-plaintiffs initially filed a suit for partition and other ancillary reliefs. He further contended that during the pendency of the suit the plaintiff-Opposite Party No.1, after their appearance, moved an application under Order-39, Rule-1 & 2 of the CPC. He further contended that initially the trial Court disposed of the application under Order-39, Rule-1 & 2 of the CPC by directing the parties to maintain status-quo over the suit scheduled land. Being aggrieved by such order, the defendant No.6-Appellant preferred the above noted appeal.

5. The learned First Appellate Court by virtue of the impugned judgment dated 30.10.2025 at Annexure-7 dismissed the appeal. Being aggrieved by such dismissal of his first appeal, the Petitioner-Appellant has approached this Court by filing the present CMP application. On perusal of the impugned order dated 30.10.2025 at Annexure-7, it appears that the plaintiff has filed a violation Misc. Case under Order-39, Rule-2A of the CPC which has been registered as I.A. No.154 of 2025.

6. It is alleged by the learned counsel for the plaintiffs that the defendant No.6 has specifically violated the interim order of injunction passed by the learned trial Court. Such application under Order-39, Rule-2A of the CPC is still pending for adjudication. On perusal of the impugned order dated 30.10.2025, this Court found that the learned First Appellate Court has taken note of the factual background of the present case, particularly keeping in view the pendency of the aforesaid violation Misc. Case. and the fact that the defendant No.6 is making construction over the suit scheduled land in violation of the injunction order, under the PMAY Scheme and has come to a conclusion that permitting the petitioner to continue

with the construction would cause serious prejudice to the plaintiffs. Moreover, the learned First Appellate Court has observed that equity does not allow grant of any interim relief in favour of the Appellant till the allegation against the plaintiffs of violating the interim order passed by the trial Court is adjudicated.

7. Upon hearing the learned counsels appearing for both sides, on a carefully examination of the background facts as well as on a close scrutiny of the impugned order dated 30.10.2025, this Court is of the considered view that the learned First Appellate Court has not committed any illegality in rejecting the plaintiffs' appeal. Therefore, this Court is of the view that the impugned order does not call for any interference at this stage. However, while disposing of the present CMP application, without interfering the impugned order, this Court grants liberty to the Petitioner to move a fresh application under Order-39, Rule-4 of the CPC before the learned trial Court. In the event, the learned trial Court comes to a conclusion that the defendant No.6 has not violated the Court's order in the pending application under Order-39, Rule-2A of the CPC filed by the plaintiffs. In the event any such application is filed, the same shall be considered on its own merit after providing opportunity of hearing to both sides and every endeavour shall be made to dispose of such application as expeditiously as possible.

8. Since the application under Order-39, Rule-2A of the CPC filed at the instance of the plaintiffs is still pending, the learned trial Court is further directed to make every endeavour to expedite the hearing of such application and to ensure disposal of such application as expeditiously as possible. Parties are directed to cooperate with the learned trial Court for an early disposal of I.A.

No.154 of 2025 pending before the learned trial Court. This Court further makes it clear that it has not expressed any opinion on the merits of the matter.

9. With the aforesaid observation/direction, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout

Signature Not Verified
Digitally Signed
Signed by: SANTANU KUMAR ROUT
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 31-Oct-2026 16:37:49