IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.593 of 2026

Sabita Dhala @ Sabita Swain ..... Petitioner

Represented by Adv. -
Ashok Kumar Sahoo

-versus-

1) alekha chandra biswal ..... Opposite Parties
2) sabita dhala
3) subash dhala

Represented by Adv. -

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
09.04.2026

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

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

3. By filing the present CMP application the Plaintiff in C.S. No.11 of 2026 has approached this Court thereby challenging order dated 16.01.2026 passed by the learned Civil Judge (Senior Division), Pattamundei in I.A. No.10 of 2026.

4. Learned counsel for the Petitioner at the outset contended that the Petitioner as Plaintiff filed a suit for partition, declaration and permanent injunction. Along with the plaint the Plaintiff filed an application under Order 39 Rule 1 and 2 as well as under Rule 10. Although the suit property is a joint family property and the Plaintiff has approached the Court for partition of the joint family property, one of the co-sharer is making construction over the suit

scheduled land prior to the determination of the share of the respective co-sharers. He further contended that once the co-sharer is permitted to move ahead with the construction, the same would cause immense difficulties at later stages of the suit. He further submitted that although the suit was filed in January, 2026 however, the learned trial Court, after rejecting the application of the Plaintiff under Rule 3 of Order 39, has been liberally adjourning the matter on different dates. In course of hearing, learned counsel for the Petitioner demonstrated from order itself that the application under Order 39 Rule 1 and 2 adjourned from 16.01.2026 to 20.02.2026 again from 20.02.2026 to 07.03.2026 and finally from 07.03.2026 to 29.04.2026**.** As a result of grant of such liberal adjournments, learned counsel for the Petitioner contended that the Plaintiff is seriously prejudiced as the other co-sharer Opposite Parties are continuing with the construction work.

5. In the aforesaid factual backdrop, this Court is of the view that considering the urgency involved in the matter and after rejection of the Order 39 Rule 3 application, the learned trial Court should have expedited the hearing of the application under Order 39 Rule 1 and 2 of the CPC. In the event any of the co-sharers are allowed to go ahead with the construction work it would definitely create problems at later stages of the suit. In view of the aforesaid position, this Court deems it proper to dispose of the present CMP application by directing the learned trial Court to make every endeavour to dispose of the application of the Plaintiff-Petitioner under Order 39 Rule 1 and 2 as expeditiously as possible, preferably within a period of eight weeks, by providing opportunity of hearing to both sides.

6. As an interim, it is directed that the Parties shall maintain status quo regarding the suit scheduled and for a period of eight weeks. It is further made clear that learned trial Court while disposing of the application under Order 39 Rule 1 and 2 shall not be influenced by interim arrangement made by this order and that such application shall be considered strictly on its own merit. Since this application is being disposed of without issuing notice, liberty is granted to the Opposite Parties to apply for modification or variation of this Court's order in the event it is found that the Plaintiff has suppressed any material fact or misled this Court in any manner whatsoever.

7. With the aforesaid observation and direction, the CMP application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Sisir

Signature Not Verified
Digitally Signed
Signed by: SISIR KUMAR SETHI
Designation: PERSONAL ASSISTANCE
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 10-Apr-2026 15:05:15