IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1874 of 2026
CNR No. ODHC010845422026

Kumuda Chandra Das ..... ***Petitioner***

Represented by Adv. - Pragyan Paramita Mohanty

-versus-

DEEPAK KUMAR SENAPATI ..... ***Opposite Parties***

Represented by Adv. -

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
10.11.2026

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 application under Article 227 of the Constitution of India, the Plaintiff in C.S. No.123 of 2023 pending in the Court of learned Additional Civil Judge (Senior Division), Baripada has approached this Court thereby challenging the order dated 29.09.2026 passed in I.A. No.278 of 2023. Whereby the Plaintiff's application under Section 151 of the CPC with a prayer to direct the local police to ensure implementation of the injunction order passed by the Court on 19.11.2024 has been rejected by the learned trial Court.

4. Learned counsel for the Petitioner at the outset contended that initially the Petitioner, as Plaintiff, filed a suit for declaration, injunction and other ancillary reliefs. He further contended that along with the plaint the Plaintiff filed an application under Order 39 Rule 1 and 2 of CPC. Learned counsel for the Petitioner further submitted that by virtue of the order dated 19.11.2024, passed in I.A. No.278 of 2023, the Plaintiff's prayer for permanent injunction Order 39 Rule 1 and 2 was allowed ex-parte and the Opposite Parties were restrained from making any sort of construction over any portion of the Schedule "Ka" land during the pendency of the suit.

5. Since the defendants violated the interim order of injunction dated 19.11.2024, the Plaintiff approach the learned trial Court by filing an application under Section 115 of the CPC with a prayer for police help. Such application was initially rejected on the ground that since the Plaintiff has not filed any application under Order 39 Rule 2(a) of CPC, such a prayer is not maintainable. After rejection of his earlier application under Section 151 of the CPC, the Plaintiff again moved an application under Section 151 of the CPC, with relevant citations, taking a ground that in case of violation of an injunction order it is not always necessary to file an application under Order 39 Rule 2(a) of the CPC and that the learned trial Court has power to entertain an application under Section 151 of CPC and pass necessary direction to ensure implementation of the injunction order. Such subsequent application under Section 151 of CPC having been rejected vide order dated 29.09.2026, the Plaintiff has approached this Court by filing the present application under Article 227 of the

Constitution of India.

6. Learned counsel for the Petitioner at this juncture alleged that although there existed on injunction order operating in favour of the Petitioner and against the Defendants, however the Defendants, by ignoring such injunction order, having continued with the construction work. He further alleged that the defendants are openly flouting the order passed by the learned trial Court. In the aforesaid factual backdrop, this Court deems it proper to dispose of the present application by granting liberty to the Petitioner to approach the learned Court immediately by filing an application under Order 39 rule 2(a) of the CPC. In the event, any such application is filed along with an interim application seeking police protection, such application shall be considered expeditiously by the learned trial Court and necessary interim order be passed to ensure that the earlier injunction order passed by the learned trial Court is adhered to by the defendants.

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

(A.K. Mohapatra)
Judge

Sisir

Signature Not Verified
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Signed by: SISIR KUMAR SETHI
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 11-Nov-2026 17:38:21