IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.2012 of 2026
CNR No. ODHC010888962026

Sita Patel ***.....*** ***Petitioner***

Represented by Adv. –
Mr. Byomokesh Sahoo

-versus-

Sudarsan Patel and others ***.....*** ***Opposite Parties***

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
19.11.2026

Order No.

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

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

3. By filing the present CMP application under Article 227 of the Constitution of India, the Plaintiff in Civil Suit No.203 of 2021, pending in the court of learned Senior Civil Judge, Sundargarh, has approached this Court thereby challenging the impugned order dated 04.11.2026 passed in I.A. No.50 of 2026, arising out of the abovenoted suit, which was filed at the instance of the Plaintiff under Order-XXXIX Rule-3 of C.P.C.

4. By virtue of the impugned order dated 04.11.2026, the trial court has rejected the Plaintiff-Petitioner's application under Order-XXXIX Rule-3 of C.P.C. seeking ad interim ex parte injunction.

5. Learned counsel for the Petitioner, at the outset, contended that the Petitioner, as a Plaintiff, filed a suit for declaration of right, title and interest and cancellation of the Will executed in favour of the Defendant No.4. He further contended that along with the plaint the Plaintiff filed an application under Order-XXXIX Rule-1 & 2 and an application Order-XXXIX Rule-3 of the C.P.C. The application under Order-XXXIX Rule-3 of C.P.C was taken up first and it was heard ex parte. However, the learned trial court was not inclined to grant any ad interim ex parte order restricting the Defendant No.4 to carry out any construction over the suit schedule land. Being aggrieved by such order, the Plaintiff-Petitioner has approached this Court by filing the present CMP application.

6. On perusal of the impugned order dated 04.11.2026, this Court found that the Plaintiff-Petitioner's application under Order-XXXIX Rule-3 of C.P.C. with a prayer for ad interim ex parte injunction order has been rejected by the learned trial court on the ground that any prohibitory order is required to be passed after hearing from both sides as the suit involves adjudication of the title, otherwise the same would cause prejudice to the Defendant No.4, who is the Opposite Party No.1 in the present CMP application. It has also been observed that the Plaintiff was unable to produce any document to establish the fact that the Defendant No.4 is making construction over the suit schedule land. As such, learned trial court has come to a conclusion that there is no urgency which would necessitate any kind of ad interim ex parte injunction order.

7. This Court, on a careful analysis of the submission made by the learned counsel for the Petitioner, and on a close scrutiny of the impugned order dated 04.11.2026, found that the impugned order

does not call for any interference. However, taking into consideration the fact that the application under Order-XXXIX Rule-1 & 2 of C.P.C is posted to 14.12.2026, the present CMP application is being disposed of by directing the trial court to expedite the hearing of the application under Order-XXXIX Rule-1 & 2 of C.P.C and make every endeavour to dispose of the same as expeditiously as possible, preferably within period of six weeks, subject to appearance by all the parties. It is further directed that till disposal of the application under Order-XXXIX Rule-1 & 2 of C.P.C or for a period of six weeks, whichever is later, the Defendant No.4 shall not carry out any further construction work over the suit schedule land.

8. Since the order is being passed in the absence of the Opposite Parties, liberty is granted to the Opposite Parties-Defendants to seek variation/modification of this order in the event it is found that the Plaintiff-Petitioner has either suppressed any material or mislead this Court in any manner.

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

(A.K. Mohapatra)
Judge

Debasis

Signature Not Verified
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Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 19-Nov-2026 17:54:57