IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.2041 of 2026
CNR No.ODHC010902912026

Kalinga Housing Construction Company Pvt., Ltd., Sundargarh .... ***Petitioner***

Mr. P.K. Satapathy, Advocate

-versus-

Krushna Sa and Others .... ***Opp. Parties***

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

Order No. **19.11.2026**

01. 1. This matter is taken up through hybrid mode.

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

3. The Plaintiff in C.S. No.120 of 2026, pending in the Court of learned Civil Judge (Senior Division), Rourkela, has approached this Court by filing the present application under Article 227 of the Constitution of India, challenging the impugned order dated 06.11.2026 at Annexure-1. By virtue of the aforesaid order, the learned Trial Court has rejected the application filed by the Plaintiff under Order XXXIX, Rule 3 read with Section 151 of the CPC, refusing to grant an ad interim ex parte injunction against the Defendant-Opposite Parties.

4. Learned counsel for the Petitioner contended that initially the Plaintiff-Petitioner had filed a suit of declaration and for permanent injunction along with a suit plaint. The Plaintiff filed an application under Order 39, Rules 1 and 2 and Rule 3 of the CPC.

Awaiting service of notice and the application filed under Order 39, Rules 1 and 2 of the CPC, the learned Trial court took up the application under Rule 3 of the CPC and rejected such application vide order dated 27.07.2026, Annexure-1. Learned counsel for the Plaintiff, at this juncture, alleged that taking advantage of such rejection of Order 39, Rule 3 application, the Defendants made an attempt to demolish the boundary wall and take possession over the suit scheduled land forcibly, which was registered by the Plaintiff. Consequently, an FIR wad lodged before the Raghunathpali Police Station, which has been registered as a police case and the investigation is going on in that case.

5. Thereafter, on 05.11.2026, the Plaintiff filed another application, purportedly under Order XXXIX, Rule 3 read with Sections 94 and 151 of the CPC, seeking an ex parte ad interim injunction against the Defendant-Opposite Parties, more particularly, restraining them from interfering with the Plaintiff's possession over the suit-scheduled property and from changing its nature and character. While considering the said application, the learned Trial Court, vide order dated 06.11.2026, took note of the allegations made by the Plaintiff and specifically observed that, in the absence of suitable interim remedial measures, the Plaintiff's rights over the suit-scheduled property are required to be safeguarded and protected. The learned Trial Court further observed that the Plaintiff had made out a prima facie case in support of his claim, that the balance of convenience lay in his favour and that he was likely to suffer irreparable loss owing to the alleged high-handed conduct of the Opposite Parties unless an ex parte interim order was granted against them.

6. However, while disposing of the application dated 05.11.2026, the learned Trial Court ultimately rejected the prayer of the Plaintiff on the ground that mere registration of a police case and the consequential criminal investigation could not, by themselves, serve as conclusive proof of either possession or dispossession in a dispute involving title to the property. It was further observed that the Plaintiff had failed to establish if any irreversible damage had been caused which was incapable of being remedied or compensated at a subsequent stage of the suit. Accordingly, the learned Trial Court held that no exceptional case warranting the grant of such interim relief, on the ground of irreparable injury or balance of convenience, had been made out. Being aggrieved by the aforesaid order of the learned Trial Court, the Petitioner has approached this Court by filing the present application.

7. Having regard to the submissions made by learned counsel for the Petitioner and upon careful examination of the background facts as well as the impugned order dated 06.11.2026 at Annexure-1, this Court finds that the application filed under Order XXXIX, Rules 1 and 2 of the CPC is still pending adjudication. In the meantime, if the parties are permitted to alter the existing state of possession or change the nature and character of the suit-scheduled property, the same may cause serious prejudice to the parties. Moreover, the Plaintiff has alleged that the Defendants have attempted to forcibly dispossess him from the suit-scheduled property.

8. In such view of the matter, this Court is of the considered view that, unless the suit-scheduled property is protected in the meantime, the Plaintiff-Petitioner may suffer prejudice and the

very purpose of adjudicating the application filed under Order XXXIX, Rules 1 and 2 of the CPC may be frustrated.

9. In the aforesaid factual backdrop, this Court is inclined to modify the impugned order dated 06.11.2026 to the extent indicated hereinbelow. Accordingly, the parties are directed to maintain status quo with regard to possession over the suit-scheduled property till disposal of the application filed under Order XXXIX, Rules 1 and 2 of the CPC. The learned Trial Court is directed to dispose of the said application as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order. It is further made clear that, while considering the said application under Order XXXIX, Rules 1 and 2 of the CPC, the learned Trial court shall not be influenced by the present order and shall consider such application strictly on the basis of its own merits, taking into consideration the argument likely to be advanced by both sides and on the basis of the material produced before it.

10. Since this order is being passed in the absence of the Opposite Parties, liberty is granted to the Opposite Parties to seek for variation or modification of this order in the event it is found that the Petitioner has suppressed any material fact or misled this Court on any material aspect of the matter.

11. With aforesaid observations and directions, the application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Sarbani

Signature Not Verified
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Signed by: SARBANI DASH
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 20-Nov-2026 10:00:03