



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP NO.1360 OF 2024

Lipika Patra ***Petitioner***
Mr. Bibhu Prasad Mishra, Advocate
-versus-
Subrat Kumar Samal and another ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
19.12.2024

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Order dated 2nd August, 2024 (Annexure-4) passed in IA No.01 of 2024 (arising out of CS No.760 of 2024) is under challenge in this CMP, whereby learned Civil Judge, 1st Court, Cuttack, though rejected a petition under Order XXXIX Rule 3 CPC, but exercising inherent power under Section 151 CPC, directed the parties to maintain *status quo* over the suit property.
3. Mr. Mishra, learned counsel for the Petitioner relying upon the case of ***Meena Kumari Bhagat -v- Smt. Kuntala Nayak and others, reported in 2016 (I) CLR 625***, submits that once a petition under Order XXXIX Rule 3 CPC is rejected, the Court should not have exercised its discretion in granting *ex parte ad interim order of status quo*. In the meantime, the Petitioner has already entered appearance, but in view of the settled law, the impugned order under Annexure-4 is not sustainable and is liable to be set aside.
4. Considering the submission made by learned counsel for the Petitioner and on perusal of the case law cited, this Court is of the considered opinion that when learned trial Court rejected the petition under order XXXIX Rule 3 CPC, it should not have



exercised inherent power under Section 151 CPC to pass an *ex parte ad interim* order of *status quo*.

5. Be that as it may, since the Petitioner has already entered appearance, it is open for him to bring the same to the notice of learned trial Court which will be in a position to appreciate the matter effectively.

6. Accordingly, this CMP is disposed of with a direction that in the event, the Petitioner files an objection/petition for vacation of *ex parte ad interim* order of *status quo*, which is impugned herein, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned.

7. Since the sole Opposite Party to the IA (the present Petitioner) has already entered appearance in the suit pending before learned trial Court, endeavour shall be made by learned trial Court to dispose of the IA, i.e., IA No.01 of 2024 (arising out of CS No.760 of 2024) as expeditiously as possible preferably within a period of one month hence giving opportunity of hearing to the parties concerned.

Rojalin

(K.R. Mohapatra)
Judge