



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.544 of 2026

Gummudu Chitti Babu

....

Petitioner

Represented by Adv.–
Mr. Soubhagya Kumar Dash, Advocate

-Versus-

Gedela Gopal Krishna and others

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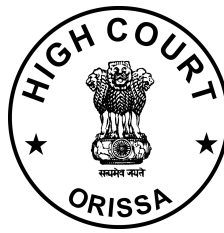
Opposite Parties

**CORAM:
HON' BLE THE CHIEF JUSTICE**

Order No.

**ORDER
08.05.2026**

01. 1. The instant revisional petition arises from a judgment and order dated 9th October, 2025 passed by learned District Judge, Gajapati, Paralakhemundi in F.A.O. No.4 of 2023, by which, the appeal under Order 43 Rule 1(r) of the Code of Civil Procedure filed by the petitioner is dismissed.
2. The plaintiff-petitioner filed a suit for declaration of his right, title and interest and confirmation of the possession in respect of the suit property with consequential relief in the form of a permanent and mandatory injunction. The said suit was instituted on 24th April, 2019 and an application under Order 39 Rules 1 and



2 of the Code of Civil Procedure was taken out restraining the defendants-opposite parties from damaging or changing the nature and character of the suit property until disposal of the suit. An *ex parte* ad interim order of injunction was passed on 10th May, 2019 in the form of a *status quo* to be maintained by the opposite parties No.1 to 4 in relation to causing any damage, changing or altering the nature and character of the suit property until the disposal of the suit. Subsequently, an application under Order 39 Rule 2A of the Code of Civil Procedure is taken out alleging that despite the order of injunction having passed against the said opposite parties, they proceeded to make construction in violation of the said injunction order. The trial court after registering the said case, issued summon where the opposite parties appeared and contested the same by adducing evidence in support thereof. The trial court after considering the evidence produced by the respective parties held that the plaintiff-petitioner has not been able to prove that there is any violation of the said injunction order and proceeded to dismiss the said proceeding. The order dismissing the said application under Order 39 Rule 2A of the Code is carried to the first appellate court which gave rise to the registration of FAO No.4 of 2023 before the learned District Judge, Gajapati at



Paralakhemundi and by the impugned judgment and order, the said appeal is dismissed.

3. Learned counsel for the petitioner submits that the Court did not take into consideration the evidence adduced by the third witness on behalf of the plaintiff-petitioner wherein he categorically deposed that the opposite parties made construction during the Covid period. He further submits that both the Courts below have thus committed an error in rejecting the said application.

4. At the very outset, we must record that while exercising the jurisdiction under Article 227 of the Constitution of India, the Court should not act as a court of appeal, but exercise such jurisdiction to keep the court subordinate to it within the precinct of law. In the event this Court finds that the Courts have transgressed the boundaries so set forth in law, the power of superintendence should be exercised. It is not intended to correct the orders nor to go deep into the matter, what ought to have been taken into consideration by the court below. Furthermore, the concurrent finding of facts returned by two forums should not be interfered with unless the Court finds a strong reason, more



particularly, that the trial court ignored the material piece of evidence, has misinterpreted the relevant evidence, proceeded on the wrong provision of law, and above all, acted in contravention to the settled proposition of law set forth by the apex Court as well as the High Courts.

5. The evidentiary value is to be considered at the time of determination of the case and both the Courts below does not find any credence to the deposition of P.W.3 in absence of any corroborative documentary evidence. This Court does not find that such concurrent finding of facts suffers from the vice of illegality and/or infirmity.

6. Since both the Courts have uniformly held that the petitioner has miserably failed to prove that the construction made at the suit property is in violation of the order of injunction, this Court does not find any material to take a contrary view thereto.

7. Accordingly, the instant petition is dismissed. No order as to costs.

(Harish Tandon)
Chief Justice