



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.695 of 2026

Anirudha Swain and others

.....

Petitioners

Represented By Adv. –
Mr. Jyoti Ranjan Deo

-versus-

Musi Swain and others

.....

Opposite Parties

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

30.04.2026

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioners. Perused the CMP application as well as the documents annexed thereto.
3. The Plaintiffs in C.S. No.621 of 2018 pending in the court of learned Additional Senior Civil Judge, Bhadrak has approached this Court by filing the present CMP application under Article 227 of the Constitution of India thereby challenging the order dated 10.03.2026 passed in C.M.A. No.140 of 2025, arising out of I.A. No.588 of 2019 in the above noted suit thereby rejecting the Plaintiffs' prayer made under Section 151 of C.P.C. to implement the status quo order passed by the learned trial court in I.A. No.588 of 2019, arising out of very same suit, through the help of



the police.

4. Learned counsel for the Petitioners, at the outset, contended that the Petitioners as the Plaintiffs filed a suit for partition and for the consequential reliefs. Along with a suit they also filed an application bearing I.A. No.588 of 2019 seeking injunctive relief. The learned trial court initially granted an order of status quo to be maintained by the parties in respect of the suit scheduled land. Alleging non-compliance of the order passed by the learned trial court, the Petitioners approached the learned trial court by filing an application under Section 151 of the C.P.C. with a prayer to implement the status quo order passed in I.A. No.588 of 2019 over the suit scheduled land with the help of the police. The learned trial court, by virtue of interim order dated 10.03.2026 at Annexure-1 and taking into consideration the entire factual scenario of the case, has arrived at the conclusion that the Petitioners have not filed a valid Misc. Case under Order-XXXIX Rule-2A of the C.P.C. Therefore, the application of the Petitioners has been dismissed on the ground that without a cogent proof of violation of status quo order, it would not be prudent on the part of the court to give a direction for implementation of the order with the help of the police. Accordingly, the I.A. has been dismissed. Being aggrieved by such order under Annexure-1, the Petitioners have approached this Court by filing the present CMP application.

5. On a careful consideration of the submission made by the learned counsel for the Petitioners, further on a close scrutiny of the order dated 10.03.2026 at Annexure-1, this Court observes that the Petitioners have alleged non-compliance of the status quo



order passed by the learned trial court. Thereafter, he had approached the trial court by filing an application under Section 151 of C.P.C. to implement the order with the help of the local police.

6. At this juncture, this Court would like to observe that although it is not disputed that the learned trial court can give a direction to the police for providing help under Section 151 of the C.P.C. as has been held in many judgments of this Court as well as the Hon'ble Supreme Court, particularly the one cited by the learned counsel for the Petitioners decided in the case of ***Sayed Ekram Saha v. Haroon Khan and Others***, reported in ***2025 SCC OnLine Ori 4530***, however, such power is to be exercised only in deserving cases where Courts come to a conclusion that the parties are responsible for violation of court's order. In the instant case, the Plaintiffs-Petitioners have failed to file an application under Order-XXXIX, Rule-2A of the C.P.C. alleging violation of the order passed by the court. The application under Section 151 of C.P.C. cannot be permitted to be filed mechanically seeking police help for implementation of each and every order. It is the duty of the parties to abide by and respect the order passed by the Court. It is only in the event of violation of such orders that the Courts will be well within its jurisdiction to exercise its inherent power to direct the police to ensure the implementation of Courts' order even though the same has not been specifically provided in the Code. Eventually, it is the duty of the Court to ensure that the order passed by the Court is implemented and it is rightly observed by the coordinate Bench of this Court that the Courts cannot be silent spectator to the violation of Court's order and permit injustice to be perpetrated in the shape of violation of order



passed by the learned courts.

7. This Court further observes that before exercising such inherent power under Section 151 of the C.P.C. and before giving any direction to the police to provide necessary assistance/help to the party who has been protected by the Court, the Court must come to a conclusion that there exists a scenario whereunder one of the parties has either violated or has been repeatedly violating the order passed by the Court. In the Civil Procedure Code, a specific mechanism has been provided under Order-XXXIX Rule 2A of the C.P.C. In the instant case, without approaching the learned trial court by filing an application under Order-XXXIX Rule-2A of the C.P.C. alleging violation of Court's order, the Petitioners have straight-way filed a petition under Section 151 of C.P.C. It appears that the Petitioners themselves have decided that other side has violated the Court's order and, accordingly, they have come to the Court for obtaining a direction to the police to ensure implementation of the Court's order. As has been observed hereinabove, the Courts are duty bound to ensure the implementation of the Court's order. At the same time they have to ensure and come to a definite conclusion on their own that the allegation of the parties who have approached the Court that the other side violated the Court's order is true. The ideal approach in such a case is to file an application under Order-XXXIX Rule-2A of C.P.C. and after providing opportunity to the both sides, the Court has to come to a conclusion as to whether there is any violation of Court's order. As a consequence of such adjudication, the learned trial court can then exercise its inherent power to direct the police help/assistance.



8. Keeping in view the aforesaid observation of this Court, this Court deems it proper to dispose of the present CMP application by granting liberty to the Petitioners to approach the learned trial court again by filing an application under Order-XXXIX Rule-2A of the C.P.C within two weeks' from today. In such eventuality, the trial court shall consider and dispose of such application after providing opportunity to both sides. It is needless to mention here that in the deserving cases, the trial court is well within its jurisdiction to direct the police to provide help/assistance to the party, who has approached the court seeking protection of the Court and alleging violation of the Court's order. In the event the Petitioners file an application under Order-XXXIX Rule-2A of C.P.C., the trial court shall make every endeavour to dispose of the same as expeditiously as possible.

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

(Aditya Kumar Mohapatra)
Judge

Debasis