



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.784 of 2026

Tapan Kumar Sahoo

.....

Petitioner

Represented By Adv. –
Mr. Rajesh Ranjan Sahoo

-versus-

Bipracharan Bhoi and others

.....

Opposite Parties

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Order No.

ORDER

08.05.2026

01.

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

2. Head the learned counsel for the Petitioner. Perused the CMP application as well as the documents annexed thereto..

3. By filing the present CMP application under Article 227 of the Constitution of India, the Plaintiff in C.S. No.252 of 2026 pending in the court of learned 1st Additional Senior Civil Judge, Bhubaneswar has approached this Court thereby challenging the inaction of the learned trial court to take up his injunction application filed under Order-39 Rule-1 & 2 of the C.P.C.

4. Learned counsel for the Petitioner, at the outset, contended that the Petitioner as a Plaintiff filed the above



noted suit for specific performance of contract, permanent injunction and consequential reliefs. Along with the suit, the Petitioner filed an application under Order-39 Rule-1 & 2 of C.P.C. as well as an application under Order-39 Rule-3 of the C.P.C. Initially the application under Order-39 Rule-3 of C.P.C was taken up and the learned trial court was not inclined to pass any interim order without issuing notice to the Defendants. Accordingly, notices were issued to the Defendants. He further submitted that although the suit has been adjourned on earlier three occasions and the notice to the Defendants held to be sufficient, however, the application under Order-39 Rule-1 & 2 of C.P.C. has not been taken by the learned trial court.

5. With regard to the urgency involved in the present matter, learned counsel for the Petitioner contended that the suit is for specific performance of contract. He further submitted that although the Plaintiff has paid money to the Defendants for acquiring a piece of land, the Defendants are not executing the sale deed in favour of the Plaintiff-Petitioner. He further submitted that in the meantime, the Defendants, instead of executing the sale deed in favour of the Plaintiff-Petitioner, has executed the sale in favour of the 3rd party by virtue of the sale deed dated 09.03.2026 under Annexure-7 to the CMP application. In such view of the matter, learned counsel for the Petitioner contended that unless this Court intervenes and protects the Plaintiff-Petitioner, the same would create complication of the suit, as



well as lead to multiplicity of proceedings, as the scope of the suit is expanded and the subsequent purchaser of the suit property is required to be arrayed as a party to the suit. On such ground, learned counsel for the Petitioner contended that the inaction on the part of the learned trial court to take up the injunction application is highly illegal and arbitrary.

6. Considering the submission made by the learned counsel for the Plaintiff-Petitioner and on careful examination of the background facts as well as the documents annexed to the present CMP application, further taking note of the fact that though notices were issued to the Defendants and the same were sufficient, the Defendants have not appeared in this case. As a result of which, they were set ex parte by the trial court. Further, taking advantage of the situation, the Defendants are executing the sale deed and alienating the suit scheduled property. Therefore, this Court is convinced that there exists urgency for which the trial court should have taken up the injunction application. In view of the aforesaid position, this Court directs the learned trial court to take up the application of the Petitioner under Order-39 Rule-1 & 2 of C.P.C. as expeditiously as possible and dispose of the same within a period of eight weeks from today after providing opportunity to the appearing parties.

7. As an interim, it is directed that till the application of the Petitioner Order-39 Rule-1 & 2 of C.P.C. is disposed of,



the Defendants shall not alienate the suit scheduled land further. The learned trial court shall not be influenced by the aforesaid order and dispose of the application of the Petitioner under Order-39 Rule-1 & 2 of C.P.C. on its own merit.

8. Since this order is passed in the absence of the Opposite Parties, who are set ex parte in the suit, liberty is granted to them to seek modification/variation of this order in the event it is found that the Petitioner has either suppressed any material facts or misled the Court in any manner.

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

(Aditya Kumar Mohapatra)
Judge

Debasis