



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.876 of 2026

Smita Paramita

.....

Petitioner

Represented by Adv. -
Anupama Mohanty

-versus-

Susmita Mishra & Ors.

.....

Opposite Parties

Represented by Adv. -

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

22.06.2026

Order No.

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.
3. The plaintiff in CS No.1175 of 2026 pending in the court of learned Civil Judge (Senior Division), Bhubaneswar, has approached this Court by filing the present CMP application under Article 227 of the Constitution of India, thereby challenging the impugned rejection order dated 15.05.2026 passed in I.A No.1 of 2026, whereby the application of the Petitioner under Order 39 Rule 3 has been rejected.
4. Learned counsel for the Petitioner, at the outset, contended that the Petitioner, as Plaintiff, filed a suit for permanent injunction along with an application under Order 39 Rule 1 and 2, and Rule 3, seeking ad-interim ex-parte injunction. It is further contended that as per the allegation in the plaint, the defendants, who are the apartment owners, are constructing a lift inside of the plaintiff's



house, thereby blocking two windows of the plaintiff-petitioner's house. Learned counsel for the Petitioner contended that such construction is causing obstruction in the passage of air and light to the plaintiff's house. Accordingly, the plaintiff has approached the learned trial court by filing the abovenoted suit.

5. In course of argument, learned counsel for the Petitioner argued that there exists urgency, and that the learned trial court has committed an illegality by ignoring such urgency and rejecting the plaintiff's application under Order 39 Rule 3 of the CPC. She further contended that the defendants are laying the foundation for construction of the lift, and in the event they are permitted to make construction, the same will cause irreparable injury to the plaintiff. On such ground, learned counsel for the Petitioner prayed that the defendants be restrained to make any such construction till disposal of the application of the plaintiff under Order 39 Rules 1 and 2 of the CPC.

6. On a close scrutiny of order dated 15.05.2026, this Court found that the learned trial court took up the application of the Petitioner filed under Order 39 Rule 3 of the CPC. However, it has specifically observed that no urgency was found in the application. Accordingly, summons were issued to the defendants in the main application filed under Order 39 Rule 1 and 2 of the CPC. Order dated 15.05.2026 reveals that the I.A has been posted to 02.07.2026.

7. In view of the aforesaid position, this Court deems it proper to dispose of the CMP application by directing the learned trial



court to expedite the hearing of the Order 39 Rule 1 and 2 application filed by the plaintiff, and every endeavour should be made to dispose of such application as expeditiously as possible, preferably within a period of six weeks from the date of communication of a copy of today's order. Since summons have already been issued to the defendants, this Court anticipates that the summons must have been duly served on the defendant-opposite parties. In view of the aforesaid position, while disposing of the present CMP application, this Court directs the parties to maintain status quo till disposal of the Order 39 Rule 1 and 2 application. It is further made clear that this Court has not made any observation on the merits of the matter, and it is open to the learned trial court to consider the Order 39 Rule 1 and 2 application on its own merit and on the basis of the submission to be made by the learned counsel for the respective parties.

8. Since the order is being passed without issuing notice to the opposite parties, liberty is granted to the opposite parties to seek for variation/modification of this order in the event it is found that the Petitioner has either suppressed any material facts or misled this court on any factual aspect.

9. With the aforesaid observations/ directions, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 23-Jun-2026 10:48:36

