



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1042 of 2026

***Dinu Bhakta @ Bhukta and
another***

.....

Petitioners

Represented by Adv. -
Prasanta Kumar
Satapathy

-versus-

Rajesh Muni

.....

Opposite Parties

Represented by Adv. -

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
06.07.2026

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioners. Peruse the CMP application as well as the prayer made therein.
 3. The plaintiffs in CS No.85 of 2026 pending in the court of learned Civil Judge Senior Division, Rourkela have approached this court by filing the present application under article 227 of the Constitution of India challenging order dated 20.05.2026 passed in I.A. No.62 of 2026 arising out of the above noted suit passed by the learned Civil Judge Senior Division, Rourkela (I/C) within during vacation. By virtue of the impugned order dated 20.05.2026 the learned Civil Judge Senior Division, Rourkela (I/C) has rejected the plaintiffs' prayer for grant of ad interim injunction under Order 39 Rule 3 of CPC.
 4. Learned counsel for the Petitioners at the outset contended



that the Petitioners as plaintiffs filed a suit for declaration and for an injunction and other ancillary reliefs. He further contended that along with the plaint, the plaintiff also filed an application under Order 39 Rule 1 & 2 and Rule 3 of the CPC. He further submitted that since there was urgency in the matter, the plaintiffs insisted upon taking up the application under Rule 3 to protect the suit schedule property. Such application was taken up for hearing on 20.05.2026 and by virtue of the impugned order the learned trial court has rejected the plaintiffs' prayer on the ground that there is no urgency in the matter and that the grounds taken by the plaintiffs have to be tested during trial and not at the initial stage. In reply to the same, learned counsel for the Petitioners contended that while considering an application under rule 3 of the CPC the learned trial court is required to protect the subject matter of the suit and to ensure that the nature and character of the suit land is not changed till consideration of the regular application under Order 39 Rule 1 & 2 of the CPC, after providing opportunity to the parties concerned. He further submitted that although there is urgency in the matter, no notice in either the suit or the I.A. under Order 39 Rule 1 & 2 of the CPC have been issued In the meantime. Being aggrieved by such conduct of the learned trial court in not issuing notice in the suit despite the plaintiffs having demonstrated urgency therein, the petitioners have approached this Court by filing the present CMP application.

5. On a careful analysis of the submissions made by learned counsel for the petitioners, and on a close scrutiny of the background facts involved in the suit as well as the documents annexed to the



CMP application, this Court found that the Petitioners being aggrieved by the rejection of their application under Order 39 Rule 3 of the CPC have approached this Court for protection of the suit scheduled property. It is argued by learned counsel for the Petitioners that the defendants are trying to change the nature and character of the suit land by breaking it into different plots and an attempt is being made to create sub-plots for different purchasers. He further contended that in the event any such third party right is created over the suit property, it would cause a great deal of inconvenience to the plaintiffs at the later stage of the suit. Further, such alienation shall create multiplicity of litigation. Although the suit was filed during vacation, however, till date no notices have been issued to the defendants as submitted by the learned counsel for the Petitioners.

6. Taking into consideration the aforesaid fact, this court deems it proper to dispose of the present CMP application at the stage of admission by directing the learned trial court to expedite the admission of the suit as well as hearing of the application under Order 39 Rule 1 & 2 of the CPC. In the event notices have not been issued, the same shall be expedited by the learned trial court. Further, it is directed that every endeavor shall be made to take up the regular application under Order 39 Rule 1 & 2 of the CPC as the application under Order 39 Rule 3 of the CPC has already been rejected by the learned trial court. Accordingly, it is directed that the learned trial Court shall make every endeavor to dispose of the application under Order 39 Rule 1 & 2 of the CPC after providing opportunity to both sides within a period of two months from the



date of communication of a copy of today's order. As an interim, it is directed that till notices are made sufficient on the defendants and until they appear before the learned trial court, the defendants shall not alienate the suit scheduled land. It is further directed that the interim order passed today is only intended to safeguards the suit property and to ensure that no third party interest is created over such property till disposal of the application under Order 39 Rule 1 & 2 of the CPC. It is open to the learned trial court to consider the application under Order 39 of the CPC on its own merit, without being influenced by the present interim arrangement or any observation made hereinabove.

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

(Aditya Kumar Mohapatra)
Judge

S.K. Rout