



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1211 of 2025

***Firza Bibi @ Farida Bibi and
others***

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Petitioners

Represented By Adv. –
Mr. Amit Prasad Bose

-versus-

State of Odisha and others

.....

Opposite Parties

Represented By Adv. –
Mr. Sarbeswar Behera,
AGA

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

Order No.

ORDER
05.05.2026

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
 2. Heard the learned counsel for the Petitioners as well as the learned Additional Government Advocate for the State-Opposite Parties. Perused the CMP application as well as the documents annexed thereto.
 3. The Plaintiffs in Civil Suit No.222 of 2008 have approached this Court by filing the present CMP application, thereby challenging the impugned judgment dated 08.07.2025 passed by the learned 1st Additional District Judge, Puri in FAO No.37/49 of 2011/2009 confirming the order dated 18.05.2009 passed by the learned Civil Judge (Senior Division), Puri in I.A. No.100 of 2008 dismissing the I.A. of the Plaintiffs filed under Order-39 Rule-1 & 2 of the C.P.C.
 4. Learned counsel for the Petitioners, at the outset, contended that



the Petitioners as Plaintiffs filed a suit for declaration and for consequential relief. He further submitted that the Plaintiffs have constructed their residential house over the land in question which belongs to the State and they have been residing there for so many years. He further submitted that the possession of the Plaintiffs is proved by the fact that they have been issued notice by the Sub-Collector, Puri in encroachment case and the appeal arising therefrom.

5. The grievance of the Petitioner in the CMP application is that although the Plaintiffs filed an application under Order-39 Rule-1 & 2 of C.P.C., however the same was rejected by the learned trial court by virtue of order dated 18.05.2009 at Annexure-2 to the CMP application. Being aggrieved by such order, the Plaintiffs' preferred an appeal before the learned 1st Additional District Judge, Puri. Such appeal was disposed of by virtue of the judgment dated 08.07.2025 after a gap of almost more than one and half decades. Being aggrieved by such appellate order dated 08.07.2025, the Plaintiffs-Petitioners have approached this Court by filing the present CMP application.

6. While assailing the impugned orders passed by the learned trial court as well as first appellate court, the learned counsel for the Petitioners contended that the learned trial court, while considering the application of the Plaintiffs under Order-39 Rule-1 & 2, has not taken into consideration the fact that the Plaintiffs are in possession of the suit scheduled land and they have been residing thereby constructing residential house. He further submitted that the prayer of the Plaintiffs for grant of injunctive relief has been rejected mechanically by the learned trial court without examining the issue in its proper perspective.

7. Learned counsel for the Petitioners, at this juncture, submitted that he has sufficient materials to establish that the Petitioners are forcefully occupying the land, even though the same has been recorded



in the name of the State of Odisha. In such view of the matter, learned counsel for the Petitioners contended that both the learned trial court as well as the first appellate court have committed illegality in not exercising their jurisdiction to grant protection to the Plaintiffs during the pendency of the suit. On such ground, learned counsel for the Petitioners contended that both the impugned orders are unsustainable in law. Accordingly, the same should be set aside.

8. Learned counsel for the State-Defendants, on the other hand, contended that the land in question belongs to the Government and the same is recorded in "Rakhita Khata". He further contended that since the land in question is a reserved land, the same cannot be allotted to any individual. Learned counsel for the State-Defendants further contended that the Plaintiffs are forcefully encroached the Government land. He also contended that several steps have been taken in the meantime by the local administrative to remove them from such Government land. However, due to the interim order passed by this Court, the Opposite Parties were not successful to vacate the Petitioners from the land in question. He further submitted that both the learned courts below have rightly rejected the prayer of the Plaintiffs-Petitioners by taking into consideration the fact that the land in question admittedly stands recorded in the name of the State. Therefore, the Plaintiffs have no right to occupy such land. As such, they are not entitled to any relief under Order-39 Rule-1 & 2 of C.P.C. On such ground, learned counsel for the State-Opposite Parties contended that the present CMP application is devoid of merit and, accordingly, the same should be dismissed.

9. Having heard the learned counsel for both the sides and taking into consideration the background facts of the present case, further on a close scrutiny of the impugned orders passed by the learned trial court as well as the first appellate court, this Court observes that although the



suit was filed in the year 2008 along with an application under Order-39 Rule-1 & 2 of C.P.C., however after rejection of the prayer initially by the learned trial court, an appeal was preferred in the year 2009. Such appeal was kept pending for more than one and half decades. This Court finds that there was no justification at all to justify such delay by the first appellate court in disposal of the first appeal which was preferred by the Petitioners. However, taking into consideration the entirety of the case, further considering of the fact that the case is of the year 2008, this Court deems it proper to dispose of the CMP application by directing the learned trial court to make every endeavour to expedite the trial of the suit and conclude the suit as expeditiously as possible, preferably within a period of one year from today. Learned counsel for the respective parties assure this Court that they will extend their cooperation to the learned trial court for an early disposal of the suit and that they shall not take unnecessary adjournments in the suit. Further, it is reminded that while granting adjournments, the trial court shall follow the rules of Order-17 of the C.P.C. It is further directed that till disposal of the suit, the parties shall maintain status quo over the suit scheduled land. However, such arrangement shall be subject to the final outcome of the suit.

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

(Aditya Kumar Mohapatra)
Judge

Debasis