



**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**CMP No.2 of 2025**

***Suryanarayan Panda***

.....

***Petitioner***

Represented by Adv. -  
Sashibhusan Das

-versus-

***Ramachandra Panda***

.....

***Opposite Parties***

Represented by Adv. -

**CORAM:**

**MR. JUSTICE ADITYA KUMAR MOHAPATRA**

**ORDER**

**24.03.2026**

**Order No.**

01.        1.     This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2.     Heard learned counsel for the Petitioner and learned counsel for the State. Perused the CMP application as well as the prayer made therein.
3.     By filing the CMP application under Article 227 of the Constitution of India, the Plaintiff in C.S. No.82 of 2022 pending before the learned Civil Judge (Senior Division), Nimapara has approached by this Court challenging order dated 06.08.2024 passed in FAO No.21 of 2023 wherein the order dated 22.03.2023 passed in I.A. No.33 of 2022 by the learned Civil Judge (Senior Division), Nimapara has been set aside.
4.     Learned counsel for the Petitioner at the outset contended that the Petitioner-Plaintiff has filed a suit for permanent injunction. He further contended that along with the suit the Petitioner also filed I.A. No.33 of 2022 under Order 39 and Rule 1 and 2. The learned trial



Court initially passed an order of status quo vide his order dated 22.03.2023. Thereafter the Defendant challenged the order dated 22.03.2023 by filing FAO No.21 of 2023 before the First Appellate Court. The learned First Appellate Court, by virtue of the impugned judgment dated 06.08.2024, set aside the impugned order passed by the learned trial Court subject to the condition that the Defendant filed an undertaking to the effect that he will not claim any equity and deliver vacant possession of the suit land by demolishing the house at their own cost, in case the Respondent in the appeal succeeds in the suit and, further, they shall not make any new construction over the suit land beyond the plinth area of the existing house.

5. Learned counsel for the Petitioner at this juncture contended that although the Defendant submitted an undertaking before the Court as has been directed by the First Appellate Court by its order dated 06.08.2024. However, they are continuing the construction despite specific undertaking given pursuant to the order dated 06.08.2024. Being aggrieved by such conduct, the Defendant-Petitioner has approached this Court by filing the present CMP application. On perusal of the impugned orders passed by both the Court's below, this Court is of the view that the Plaintiff-Petitioner, being aggrieved by violation of the interim order passed by the First Appellate Court, has approached this Court by filing the present CMP application.

6. The sole grievance of the Petitioner in the present writ application is that despite the undertaking given before the Court, the Defendants are continuing with the construction work. In such view of the matter, this Court is of the view that the Plaintiff should have



filed an application under Order 39 Rule 2(A) alleging violation of order dated 06.08.2024. Learned counsel for the Petitioner at this juncture contended that he has already filed an application under Order 39 Rule 2(A) which is stated to be pending before the learned trial Court.

7. Considering such submission the present application is being disposed of by directing the learned trial Court to take up such violation misc. case and dispose of the same as expeditiously as possible, preferably within a period of two months from the date of communication of a copy of today's order after providing an opportunity of hearing to both sides. Further, taking note of the fact that the suit is for permanent injunction simpliciter and that the same is pending since in the year 2022, liberty is granted to the Petitioner to move the learned trial Court by filing an application for early disposal of the suit. In such eventuality, learned trial Court shall pass necessary order thereon. Taking into consideration the advance age of the Parties as his evidence from the cause title of the order-sheet.

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

**( A.K. Mohapatra )**  
**Judge**

*Sisir*