

(2007) 07 OHC CK 0061

In the Orissa High Court

Case No : Second Appeal No. 23 of 1996

Paramananda Sahu and Bhagban Sahu

APPELLANT

Vs

Ramachandra Sahu

RESPONDENT

Date of Decision : 20-07-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2007) 104 CLT 376

Hon'ble Judges : A.K. Parichha, J

Bench : Single Bench

Judgement

A.K. Parichha, J.

M.C. No. 149 of 2007

1. This is a petition by the Respondent under Order 39 Rules 1 & 2, CPC to injunct the Appellants from entering into the suit land and disturbing the possession of the Respondent. It is alleged in the petition that despite order directing the parties to maintain status over the suit property, the Appellants are entering into the suit property and one trying to amalgamate the suit land with their land. Counter affidavit has been filed by the Appellants denying the said allegation and claiming inter alia that the Appellants are in possession of the suit land. Earlier in Misc. Case No. 60 of 1999 this Court directed the parties to maintain status quo over the suit property. But now there is allegation that the Appellants are violating the order of status quo. Each party now claims possession over the suit property. The Trial Court and the First Appellate Court aye held that the Respondent is in possession of the suit property. Therefore, prima facie case is now in favour of the Respondent. In such situation if the order of status quo is violated, then the balance and equity will be disturbed causing prejudice to the Respondent.

2. Considering these aspects, the order of status quo passed earlier is modified to the extent that the Appellants shall not enter into the suit land henceforth till

disposal of the appeal. It is made clear that this observation will not create or extinguish any right of any of the parties and their rights will be decided on merit in the appeal

3. Misc. Case is disposed of.

S.A. No. 23 of 1996

4. Since a stringent order of injunction has been passed against one of the parties, it is desirable to dispose of the appeal at the earliest, preferably within a period of six weeks from today.