

(2022) 06 OHC CK 0039
In the Orissa High Court
Case No : CMP No. 528 Of 2022

Smt. Anusuya Mishra

APPELLANT

Vs

Chandrakanta Beura & Another

RESPONDENT

Date of Decision : 17-06-2022

Acts Referred:

Code of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 3

Citation : (2022) 06 OHC CK 0039

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : N. Singh (1)

Final Decision : Disposed Of

Judgement

Sashikanta Mishra, J

1. This matter is taken up through hybrid mode.
2. The petitioner is the plaintiff in Civil Suit No. 469 of 2022 for cancellation of sale deed purportedly executed by her on 16.08.2019 in favour of the defendant no.1. It is the plaintiff's case that taking advantage of her bonafide belief as also ignorance of law, the defendant no.1 had managed to get the sale deed in question executed, even though she had no intention to sell the property. An I.A. has also been filed by her for injunction under Order 39, Rule 1 and 2 CPC, which is registered as I.A. No. 1 of 2022, Her prayer to grant ex-parte order of injunction under Order 39 Rule 3 was rejected and after due service of notice on the opposite parties, the I.A. is posted to 28.06.2022 for filing of objection by the contesting defendant.
3. In course of hearing before the Court below, prayer was made by the plaintiff to pass an order of status quo over the suit land, but the same was rejected on the ground of absence of prima facie case in her favour. It is submitted that the defendant no.1 has been attempting to get the plaintiff dispossessed from the suit house by unlawful means and since defendant no.1 had already entered

appearance, the learned Court below ought to have passed at least an order to maintain status quo.

4. Having regard to the fact that I.A. in question is yet to be disposed of, without expressing any opinion on the merits of the case, the CMP is disposed of directing the Court below to dispose of the I.A. as expeditiously as possible, preferably within a period of two weeks from the date of production of certified copy of this order. It is open to the petitioner to file a fresh application before the Court below for appropriate interim order during pendency of the I.A., which shall be considered and disposed of on 28.06.2022 and till such time, status quo be maintained over the suit land.

5. Issue urgent certified copy as per rules.

.....