

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 884 OF 2022

Manoranjan Bhuyan ***Petitioner***

Mr. Sudhansu Sekhar Jena, Advocate

-versus-

Kalpana Bewa @ Bhuyan and others ***Opp. Parties***

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.11.2022

Order No.

I.A. No. 1100 of 2022

3.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this I.A. seeks to recall the order dated 28th September, 2022, whereby this Court disposed of CMP without interfering with the order dated 23rd April, 2022 under Annexure-1 passed by learned Civil Judge (Junior Division), Bhubaneswar in I.A. No.01 of 2022 (arising out of C.S. 584 of 2022) dismissing an application under Order XXXIX Rule 3 C.P.C. filed by the Petitioner.
 2. Mr. Jena, learned counsel for the Petitioner submits that reason is the heartbeat of an order. When the impugned order under Annexure-1 has been passed without assigning any reason, the Court should have entertained the CMP by issuing notice to the Opposite Parties. He further submits that the delay occurred in the meantime will not frustrate the purpose of Order XXXIX Rule 3 C.P.C. He, therefore, prays for recall the order dated 28th September, 2022.

3. Considering the submission made by learned counsel for the Petitioner and on perusal of the materials on record including the order dated 28th September, 2022, it appears that the impugned order under Annexure-1 was passed on 23rd April, 2022 and the CMP was filed on 5th August, 2022. By that time, almost four months have been elapsed. The discretionary power under Rule 3 of Order XXXIX C.P.C. can be exercised, if the Court feels that the object of granting injunction will be defeated by the delay. In the instant case, such a contingency does not arise at all as almost 4 (four) months had elapsed by the time the CMP was filed.

4. In that view of the matter, this Court does not find any infirmity in the order sought to be recalled. Accordingly, the I.A. being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge

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ORISSA

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