
(2022) 05 OHC CK 0057

Orissa High Court

Case No: C.M.P. No. 241 Of 2022

Rajdeep Das

APPELLANT

Vs

Tanmaya Panda & Anr

RESPONDENT

Date of Decision: May 9, 2022

Acts Referred:

Code of Civil Procedure, 1908 " Order 39 Rule 1, Order 39 Rule 2

Citation: (2022) 05 OHC CK 0057

Hon'ble Judges: Biswanath Rath, J

Bench: Single Bench

Advocate: B.Bhuyan, S.Palit, A Parija

Final Decision: Disposed Of

Judgement

Biswanath Rath, J

1. Heard Mr.Bhuyan, learned counsel for the petitioner and Mr.S.Palit, learned Senior Counsel being assisted by Mr.A.Parija, learned counsel for the

caveator-opposite parties.

2. This Civil Miscellaneous Petition involves a suit for temporary injunction restraining the opposite parties and their agents from changing the nature

and character of the suit premises and further be restrained from dispossessing/ evicting the petitioner from the suit premises until disposal of the suit.

Application under Order 39, rule 1 & 2 of the Code of Civil Procedure at the instance of the plaintiff having been allowed with grant of status quo

order by the trial court, appeal preferred and the appellate court after hearing the parties involved in disposal of F.A.O. 12 of 2022 vide impugned

order has come to reverse the order of the trial court.

3. In course of hearing, Mr.Bhuyan, learned counsel for the plaintiff made it clear that there is no dispute at all in the status of the plaintiff-tenant and

opposite parties being owner. The only dispute involving the suit remains there is an attempt of the owner to dispossess/evicting the plaintiff from the

disputed premises not only in contravention of the conditions of the agreement between the parties but also without following due process of law.

4. Mr.Palit, learned Senior Counsel appearing for the opposite parties however submitted that the action of the tenant is in terms of the agreement.

This Court likes to enter in to such controversy at this stage of the dispute however considering this is a matter between the tenant and owner and

keeping in view the right to continue against the will of owner, further considering the submission of Mr.Bhuyan, learned counsel for the petitioner that

it has landed in huge expenditure after occupying the premises, there has been a huge amount going by way of waste and such waste will be taken

care by the owner. In disposal of the Civil Miscellaneous Petition, this Court finds the suit did not involve any such protection in the agreement. In the

event any such dispute arise, it will be open to the plaintiff to go for appropriate proceeding. Finding the continuance of the plaintiff against the will of

the owner and finding that there has been reversal order of the injunction order by the lower appellate court, further keeping in view the nature of

dispute on the asking of the Court as to the time requirement for the plaintiff to vacate the disputed premises, Mr.Bhuyan, learned counsel however

prayed for at least six months time to vacate the disputed premises. Mr.Palit, learned senior counsel however objects to grant of such longer time and

submits there may be grant of lesser time. Considering the nature of suit time to be spent in disposal of such suit in a busy court at Bhubaneswar, this

Court considers the prayer of Mr.Bhuyan and grants four and half months time for vacating the disputed premises in the meantime by the end of

September, 2022. Mr.Palit, learned Senior Counsel has no objection to such direction. Considering other aspect on behalf of the plaintiff that there is

certain amount due, in the investment of the petitioner as a tenant and the claim of the defendants that there is some arrear dues, this Court leaves it

open to the parties to agitate and adjudicate such issues in appropriate forum.

5. Since there is time framing for vacating the suit premises, this Court further directs both the parties to bring this direction to the notice of the trial

court. Plaintiff is directed to file an affidavit before the trial court to vacate the disputed premises by end of September, 2022 by handing over the

possession of the house and key to the defendants and or their authorized representative provided petitioner goes on paying the admitted rent. In the

event of such affidavit, the suit will be declared to be closed in terms of the affidavit.

6. The Civil Miscellaneous Petition stands disposed of with the observation and direction made hereinabove.

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