

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**CMP No.60 of 2022**

*Nimai Charan Burman*

....

***Petitioner(s)***

Mr.D.Mohapatra,  
Advocate

-versus-

*Bhaban Chandra Burman*

....

***Opposite Party(s)***

Mr.S.P.Panda,  
Advocate

**CORAM:**  
**JUSTICE BISWANATH RATH**

**ORDER**  
**28.02.2022**

**Order No.**

03.

1. Heard learned counsel appearing for the parties.
2. On the premises that there has been no meeting with the fundamental requirement in approaching the trial Court in the application under Order 39 Rule 4 read with Section 151 of C.P.C. particularly no finding of possession in favour of any party in the disposal of an application under Order 39 Rules 1 & 2 of the C.P.C. There was certain amount of extra care in instituting such proceeding. In the process, Mr.Mohapatra, learned counsel appearing for petitioner sought for permission of this Court to come with a better application before the trial Court.
2. Accordingly, this CMP is permitted to be withdrawn with liberty as prayed for. If such an application is filed, same shall be disposed of giving opportunity of hearing to the parties likely to be affected and without being influenced by the observation in the impugned order.

***(Biswanath Rath)***  
***Judge***