



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CMP No.841 of 2026**

An Application under Article 227 of the Constitution of India.

***Cuttack Club, Cuttack and another*** ... ***Petitioners***

*Represented By Adv.*

Mr. Nirod Kumar Sahu, Senior Advocate,  
assisted by Mr. S.S. Sahu, Advocate.

*-versus-*

***Jashobanta Das*** ... ***Opposite Party***

*Represented By Adv.*

Mr. Ashok Kumar Parija, Senior Advocate  
assisted by Mr. Uttkarsh Patel, Advocate.

**CORAM:**

**THE HON'BLE MR. JUSTICE A.K.MOHAPATRA**

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**Date of Hearing : 22.05.2026 :: Date of Judgment : 25.06.2026**

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**A.K. Mohapatra, J.**

1. The above noted CMP application has been filed by invoking the jurisdiction of this Court under Article 227 of the Constitution of India thereby seeking indulgence of this Court in



order dated 01.05.2026 passed by the learned First Civil Judge (Junior Division), Cuttack in I.A. No.01 of 2026, which arises out of C.S. No.219 of 2026, pending in the court of the learned First Civil Judge (Junior Division), Cuttack.

2. The main plank of argument of the Petitioners while assailing the impugned order is that the learned trial court has illegally and erroneously exercised its inherent power under Section 151 of the C.P.C. and resultantly the Defendants-Petitioners have been restrained from proceeding with the Disciplinary Proceeding against the Plaintiff-Opposite Party and further a direction has been given to the Defendants-Petitioners not to take any coercive action against Plaintiff-Opposite Party. Further, although the petition for ad interim injunction under Order-XXXIX Rule-1 & 2 of the C.P.C. is pending for final consideration, the same has been posted to 18.05.2026.

3. The genesis of the dispute, as is culled out from the plaint of C.S. No.219 of 2026 pending in the court of learned First Civil Judge (Junior Division), Cuttack, in brief, is that the sole Opposite Party as Plaintiff filed the above noted suit against



the Petitioner No.1, who is a registered Club under Section-8 of the Companies Act and situated in Cuttack city, and against Petitioner No.2, who happens to be the elected Secretary of the Opposite Party No.1-Club. By filing the suit the sole Opposite Party-Plaintiff sought for the following reliefs:-

- (i) To declare the letter dated 02.02.2026 issued by the Defendants suspending the Plaintiff from the membership to be null, void, illegal and arbitrary and done with mala fide intention of the Defendant No.2;
- (ii) To declare that the suspension letter dated 02.02.2026 issued by the Defendants is not binding on the Plaintiff and not enforceable and executable;
- (iii) Let a decree of permanent injunction be passed against the Defendants by restraining them from making the letter dated 02.02.2026 enforceable and operative and further the Plaintiff be permitted to enjoy the



membership of the Club as usual and avail all the benefits and facilities provide by the Club to its members;

- (iv) Let the Disciplinary Proceeding initiated against the Plaintiff be declared null, void, illegal and arbitrary;
- (v) Let the appointment of Vice-President by the Defendant No.2 as Non-Member Convenor of the Disciplinary Proceeding be declared null, void, illegal and arbitrary;
- (vi) Let the Sub-Committee constituted by the Defendant No.2 be declared null and void being against the Club Rules; and
- (vii) Let any other decree/decrees be passed by the learned court as would be deemed fit and proper.

**4.** On perusal of the CMP application as well as the documents annexed thereto, this Court prima facie observes that the above noted suit with the reliefs as indicated in the preceding



paragraph was filed on 29.04.2026. The suit was admitted and summons were issued to the Defendants posting the suit to 10.08.2026. Similarly, in the I.A. filed by the Plaintiff seeking ad interim injunction, summons were issued to the Defendants and the same was posted to 01.05.2026 for consideration. From a bare analysis of the pleadings, it appears that although the interlocutory application was posted to 01.05.2026, despite valid service of summons the Defendants-Petitioners could not appear before the court, as a result of which, they were set ex parte on 01.05.2026. An explanation has been given by the Defendants-Petitioners that since the Petitioner No.2-Secretary was out of station, the suit remains unattended from the side of the Defendants-Petitioners on 01.05.2026. It is further alleged from the side of the Petitioners that without even providing an opportunity of hearing, as is required under Order-XXXIX Rule-3 of the C.P.C., the learned trial court proceeded with the hearing of the ad interim injunction application and, in exercise of its inherent power conferred by Section 151 of C.P.C., passed the impugned order dated 01.05.2026 at Annexure-3 to the CMP



application and, as an interim, restrained the Opposite Parties (Petitioners herein) from proceeding with any Disciplinary Proceeding against the Petitioner (Opposite Party herein) and further directed them not to take any coercive action against the Petitioner (Opposite Party herein) till the next date. A further direction has been given to put up the matter on 18.05.2026.

5. Being aggrieved by order dated 01.05.2026 at Annexure-3 to the CMP application passed in I.A. No.01 of 2026, arising out of C.S. No.219 of 2026, by the learned First Civil Judge (Junior Division), Cuttack, the Defendants-Petitioners have approached this Court by filing the present CMP application.

6. The factual background of the case involved in the present CMP application reveals that the Plaintiff-Opposite Party, who happens to be a member of the Petitioner No.1-Club, was charged with certain allegations on disciplinary grounds. The Petitioner No.1-Club, as per the rules governing the activities of the Club, initiated a Disciplinary Proceeding against the Plaintiff-Opposite Party. It further appears that the membership of the Plaintiff-Opposite Party was placed under suspension vide order



dated 02.02.2026 and a Disciplinary Proceeding was initiated against him for termination of the membership of the Plaintiff-Opposite Party. While the Petitioner-Club was proceeding with the Disciplinary Proceeding, the Plaintiff-Opposite Party filed the above noted suit seeking certain declaratory reliefs as has been indicated in the preceding paragraph. The Plaintiff-Opposite Party, while challenging suspension of his membership of the Club, has also sought for a declaratory relief with regard to constitution of the Disciplinary Committee. It has also been alleged by the Plaintiff that the suspension order has been passed in alleged violation of rules of the Club as well as principle of natural justice. While seeking the aforesaid declaratory reliefs, the Plaintiff also moved an application under Order-XXXIX Rule-1 & 2 and Rule-3 of the C.P.C. seeking interim protection. Although the grounds raised by the learned Senior Counsel appearing for the Petitioners would be discussed in the subsequent paragraphs, however, for the sake of brevity, this Court would like to observe that the main plank of argument of the learned Senior Counsel appearing for the Petitioners is that



the learned trial court could not have passed an ad interim injunction order in exercise of its inherent power under Section 151 of the C.P.C. It was contended that a specific provision in the shape of Order-XXXIX Rule-1 & 2 and Rule-3 of C.P.C are available to the learned trial court for grant of ad interim injunction. In such view of the matter, learned Senior Counsel appearing for the Petitioners contended that on the face of such specific provision available in the statute book, the learned trial court is precluded from exercising its inherent power.

7. Heard Mr. N.K. Sahu, learned Senior Counsel appearing for the Petitioners as well as Mr. Ashok Kumar Parija, learned Senior Counsel appearing for the sole Opposite Party. Perused the CMP application as well as the documents annexed thereto. Considered the written note of submissions filed by both sides along with their memo of citations.

8. Mr. N.K. Sahu, learned Senior Counsel appearing on behalf of the Petitioners advanced his argument assailing the legality and validity of the order dated 01.05.2026 passed by the learned First Civil Judge (Junior Division), Cuttack in I.A. No.01



of 2026. In course of his argument, learned Senior Counsel appearing for the Petitioners raised the following principal grounds:-

- (i) The Plaintiff-Opposite Party without approaching the NCLT under Section 241 of the Companies Act, 2013 has approached the learned civil court. He further contended that the NCLT is the competent forum to adjudicate the dispute of the nature which is involved in the present CMP application. In the said context, learned Senior Counsel referred to Section 430 of the Companies Act, 2013 which takes away the jurisdiction of the civil court to entertain any issue of proceeding with regard to the matters that the NCLT is empowered to adjudicate under the Act.
- (ii) I.A. No.01 of 2026 was filed under Order-XXXIX Rule-1 & 2 read with Section 151 of C.P.C. seeking interim injunction. As such,



there was no application seeking any ad interim ex parte injunction order under Order-XXXIX Rule-3 of the C.P.C. It has been explained that although the I.A. No.01 of 2026 was posted to 01.05.2026, the Defendants-Petitioners could not appear before the court as the Secretary of the Club was absent from Cuttack on that date. Despite such fact having been brought to the notice of the learned trial court, the learned trial court has set the Defendants-Petitioners ex parte vide order dated 01.05.2026.

- (iii) Although the learned trial court deferred the hearing of the application under Order-XXXIX Rule-1& 2 of C.P.C. to 18.05.2026, however, the court below committed a serious illegality by passing order dated 01.05.2026 in exercise of its inherent powers under Section 151 of the C.P.C. thereby restraining the



Petitioners from conducting a Disciplinary Proceeding against the Opposite Party. Such exercise of inherent power is not permissible in law.

- (iv) Learned trial court has abused the process of law in passing the impugned order by exercising its inherent power under Section 151 of the C.P.C, particularly when the injunction petition under Order-XXXIX Rule-1 & 2 of C.P.C is pending for consideration. In the said context, learned Senior Counsel appearing for the Petitioners referred to the judgment of this Court in *E.I.D. Parry Limited v. M/s. Agro Sales and Service & others*, reported in (1980) 50 CLT 419. In the reported judgment a Full Bench of this Court has held that it is well recognized principle of law that the inherent powers of the court under Section-151 of C.P.C is not to be



exercised in a manner which will be contrary or different from the procedure expressly provided in the Code. The Full Bench has also held that if there are express provisions exhaustively covering a particular topic, they give rise to a necessary implication that no power shall be exercised in respect of said topic otherwise than in the manner prescribed by the said provision. He also referred to the judgments of the Hon'ble Supreme Court reported in *AIR 1962 SC 527* and *1966 SCC OnLine SC 215*.

- (v) An injunction can be granted only when the party seeking injunction is able to satisfy the court that he has a prima facie case, balance of convenience lies in his favour, and he will suffer irreparable injury if the injunction is not granted. Therefore, it was argued that in the absence of any such adjudication, the



grant of injunction by the civil court under Section 151 of C.P.C. is wholly without jurisdiction and non est in the eye of law.

- (vi) It was argued by the learned Senior Counsel appearing for the Petitioners that it is only in cases where circumstances do not fall under any of the rules prescribed that the court can invoke its power under Section 151 of C.P.C. Such an order can be passed by the court in exercise of its inherent jurisdiction in the event the grant of injunction does not fall within the scope of Section-94 of C.P.C read with Order-XXXIX Rule-1 & 2 thereof. In the said context, he referred to the judgment of the Hon'ble Supreme Court reported in (2004) 6 SCC 378. Although the application under Order-XXXIX Rule-1 & 2 of C.P.C. was adjourned, i.e., the same was not specifically rejected, the exercise of inherent



power under Section 151 of C.P.C. to restrain the Petitioners from proceeding with the Disciplinary Proceeding is illegal and arbitrary and the same does not fall within the scope of Order-XXXIX Rule-1 & 2 of the C.P.C.

(vii) Learned Senior Counsel appearing for the Petitioners would further argued that the learned trial court vide its order dated 01.05.2026 has invoked the inherent powers under Section 151 of C.P.C. without there being any clear urgency pleaded on behalf of the Plaintiff-Opposite Party.

(viii) He would further argue that civil courts lack the jurisdiction to pass any order in the suit where the allegations in the plaint are entirely against the company registered under the Companies Act, 2013. In the aforesaid context, learned Senior Counsel appearing for



the Petitioners referred to the provisions contained in Section-241 of the Companies Act 2013 as well as the powers of the Tribunal as delineated in Section 242 of the said Act. He also referred to Section 430 of the Companies Act which precludes the jurisdiction of the civil court from entertaining any suit or proceeding in respect of any matter which the Tribunal or the Appellate Tribunal are empowered to determine under the aforesaid act and, the same also bars grant of injunction by any court other than the designated Tribunal. Thus, it was argued that on a conjoint reading of the aforesaid provisions of the Companies Act, 2013, it would be amply clear that the jurisdiction of the civil court to adjudicate the dispute involved in the suit is completely ousted. In the said context, learned Senior



Counsel appearing for the Petitioners referred to the judgments of the Hon'ble Supreme Court reported in *(2026) 2 SCC 706* as well as *(2019) 18 SCC 569*.

- (ix) Finally, the learned Senior Counsel appearing for the Petitioners contended before this Court that the observation made in the impugned order dated 01.05.2026 with regard to the existence of prima facie case is not based on the examination of the relevant provisions under the “Rules of Cuttack Club” and thus such finding with regard to the existence of the prima facie case is absolutely erroneous and unsustainable in law. In the said context, learned Senior Counsel appearing for the Petitioner guided this Court through certain relevant provisions of the Rules of the Cuttack Club and tried to impress upon this Court that such provisions were not at all



examined or looked into by the learned trial court while granting the relief of ad interim injunction in favour of the Plaintiff-Opposite Party while exercising the inherent power of the civil court under Section 151 of C.P.C.

9. Mr. A.K. Parija, learned Senior Counsel, representing the sole Opposite Party-Plaintiff in the suit, submitted that although the Petitioner-Club has challenged the ad interim injunction order dated 01.05.2026 passed in I.A. No.01 of 2026, arising out of C.S. No.219 of 2026, however, in the meantime the Petitioners entered appearance before the learned First Civil Judge (Junior Division), Cuttack on 18.05.2026. The Petitioners have also filed an application under Order-IX Rule-7 read with Section 151 of C.P.C. with a prayer to set aside the ex parte order dated 01.05.2026 and have also prayed for an adjournment in order to file their objection to the injunction application. On 18.05.2026, the learned trial court has accepted the application filed by the Petitioners for setting aside the order dated 01.05.2026 and has posted the same for hearing on 22.06.2026.



**10.** On a careful analysis of the submissions advanced by the learned Senior Counsels appearing for both sides, further on a close scrutiny of the documents annexed to the CMP application as well as the written note of submissions filed by both sides, this Court found that the following questions are relevant for consideration in the present CMP application:-

- (i) Whether the exercise of inherent powers under Section 151 of C.P.C by the learned trial court in the circumstances of the present case is an abuse of process of law and, as to whether exercise of such inherent power is in conflict with any express provision of the Code?
- (ii) Whether it is within the competence of the court and whether there was an urgency in the matter which compelled the learned trial court to pass an ex parte temporary injunction order against the Defendant-Club?
- (iii) Whether the civil court lacks jurisdiction to pass any orders in the suit where the allegations in the



plaint are entirely against the registered company under the Companies Act, 2013 and as to whether the bar under Section 430 of the Companies Act would apply to the subject matter involved in the present suit?

11. While answering the aforesaid questions, this Court would like to highlight certain undisputed and relevant factual aspects involved in the present CMP application. The record reveals that the Opposite Party, as Plaintiff, approached the learned First Civil Judge (Junior Division), Cuttack by filing a suit seeking reliefs as indicated in the body of the plaint. Such plaint, it appears, was presented on 22.04.2026. The principal issue involved in the suit is with regard to suspension of the membership of the Opposite Party in the Petitioner-Club and the legality and validity of the disciplinary proceeding initiated against the Plaintiff-Opposite Party by the Petitioner-Club. The facts narrated in the plaint reveals that allegation of misconduct and criminal breach of trust was brought against the Opposite Party. On the basis of such allegation, the membership of the



Petitioner was suspended and a disciplinary proceeding has been drawn against the Plaintiff-Opposite Party. The Plaintiff has also been served with a memorandum of charges, which is a part of the CMP application. The Plaintiff filed an application under Order-XXXIX Rule-1 & 2 and Rule-3 of the C.P.C. The plaint was taken up for admission on 22.04.2026, however, an application under Order-6 Rule-17 of C.P.C. was filed on behalf of the Plaintiff seeking amendment of the plaint. Such prayer for amendment was allowed vide order dated 22.04.2026. The I.A. was posted to 27.04.2026, on which date summons were issued in the I.A. to the Defendants directing them to appear on 01.05.2026. On 01.05.2026 although the Plaintiff was present, despite valid service of notice on the Defendants, none appeared on behalf of the Defendants and no steps were taken on their behalf. Hence, the learned trial court has set the Defendants ex parte. Thereafter the trial court proceeded to hear the application filed by the Plaintiff for grant of urgent ad-interim injunction nomenclatured to be one under Section-151 of C.P.C.



12. The impugned order dated 01.05.2026 reveals that the learned trial court, after setting the Defendants ex parte, proceeded to hear the application under Order-XXXIX Rule-1 & 2 of C.P.C. read with Section-151 of C.P.C. By filing the interim application, the Plaintiff had sought for interim protection against the impugned suspension order dated 02.02.2026 and for restraining the Opposite Parties (Petitioners herein) from proceeding with the disciplinary proceeding against the Petitioner (Opposite Party herein) and from taking any coercive action against the Plaintiff (Opposite Party herein). Learned trial court has categorically mentioned in order dated 01.05.2026 that despite the valid service of notice on the Defendants-Petitioners, the Defendants-Petitioners failed to appear before the trial court on the date fixed. After hearing the learned counsel appearing for the Plaintiff, the learned trial court has passed the ex parte interim order against the Defendants-Petitioners in exercise of power under Section 151 of C.P.C and restrained the Petitioners from proceeding in any disciplinary proceeding against the Plaintiff-Opposite Party, along with a further direction not to take any



coercive action against the Plaintiff till the next date and the case was directed to be listed on 18.05.2026 for hearing of the petition under Order-XXXIX Rule-1 & 2 of C.P.C. Being aggrieved by such order dated 01.05.2026, the Defendants-Petitioners have approached this Court by filing the present CMP application.

**13.** The first issue that has been formulated by this Court for adjudication, is whether the learned trial court has abused the process of law by exercising its inherent power under Section 151 of C.P.C. It is relevant to mention here that Section 94 of the C.P.C confers power on the court to prevent the ends of justice being defeated by granting temporary injunction or by passing an appropriate interim/interlocutory order as may appear to the court to be just and convenient. It is needless to mention here that such power under Section 94 of C.P.C. is to be exercised in conformity with the provision contained under Order-XXXIX of the Code of Civil Procedure. Order-XXXIX of the C.P.C. lays down the procedure for grant of temporary injunction and interlocutory orders. While Order-XXXIX Rule-1 & 2 regulate the procedure for grant of temporary injunction, Rule-3 thereof regulates the



procedure for grant of ad interim ex parte injunction orders. Rule-3 of Order-XXXIX provides that the court shall, except in cases where it appears that the object of injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the Opposite Party. In the instant case, the learned trial court issued summons to the Defendants and the order passed by the learned trial court reveals that such summons were duly served on the Defendants. Despite such valid service of summons, none appeared on behalf of the Defendants-Petitioners on the date fixed i.e. on 01.05.2026. Accordingly, the trial court proceeded to hear the application under Order-XXXIX Rule-1 & 2 read with Section 151 of the C.P.C.

**14.** Mr. Sahu, learned Senior Counsel appearing for the Petitioners, at the outset, contended that the learned trial court has committed a gross illegality by exercising the power under Section 151 of C.P.C while deferring the hearing of the application under Order-XXXIX Rule-1 & 2 of C.P.C. In the aforesaid context, learned Senior Counsel appearing for the



Petitioners referred to several judgments of this Court as well as the Hon'ble Supreme Court and contended before this Court that wherever there is a specific provision available in the C.P.C., it is not open to the trial court to exercise its inherent power. Since there exists a specific provision in the C.P.C in the shape of Section 94 as well as Order-XXXIX Rule-1 & 2, it was vehemently argued that the learned trial court has committed a gross illegality by exercising its inherent power under Section 151 of C.P.C.

15. To support his contention, learned counsel for the Petitioners referred to the judgments of this Court in *E.I.D. Parry Limited v. M/s. Agro Sales and Service & others*, reported in (1980) 50 CLT 419; *Manohar Lal Chopra v. Rai Bahadur Rao Raja Seth Hiralal*, reported in AIR 1962 SC 527; and *Ram Chand and Sons Sugar Mills Private Ltd. v. Kanhayalal Bhargava and Others*, reported in 1966 SCC OnLine SC 215.

16. On a careful examination of the provisions contained in Section-94 of the C.P.C read with Order-XXXIX thereof as well as the judgments cited by the learned Senior Counsel appearing



for the Petitioners, this Court is of the considered view that the position of law has been well settled by a catena of judgments of this Court as well as the Hon'ble Supreme Court. Therefore, this Court has no hesitation in coming to a conclusion that the exercise of inherent power under Section 151 of the C.P.C by the trial court was uncalled for, so far the factual background of this case is concerned. Therefore, the first issue is bound to be decided in favour of the Defendants-Petitioners.

17. While answering the next question regarding the competence of the learned trial court to pass an ex parte injunction order, this Court would like to lay emphasis on the circumstances in which the learned trial court was required to pass the temporary injunction order in the present case. As has been discussed earlier, Section-94 of the C.P.C confers power on the learned trial court to pass any interim order/grant temporary injunction. Such power to grant temporary injunction is no doubt regulated by Order-XXXIX of the C.P.C. In the present case, the Plaintiff, along with his plaint, presented an application under Order-XXXIX Rule-1 & 2 and Rule-3 of the C.P.C. At the first



blush, the learned trial court adhered to the provision contained in Rule-3 and immediately issued summons to the Defendants. The record reveals that summons issued in the Interlocutory Application were duly served on the Defendants. Despite such valid service of summons none appeared on behalf of the Defendants and no steps were taken on 01.05.2026 when the Interlocutory Application was posted for hearing. Since the provision of Rule-3 of Order-XXXIX of C.P.C has been duly complied and, as per the requirement, the summons were issued to the Defendants and the same were duly served, this Court has no hesitation to hold that the provision of Rule-3 of C.P.C has been duly complied with. The impugned order further reveals that since none appeared on the date fixed in the summons, despite summons being validly served, the trial court had no other option but to set the Defendants ex parte in the Interlocutory Application. After compliance of the provision contained in Rule-3 of Order-XXXIX of C.P.C., the learned trial court should have proceeded to pass orders under Order-XXXIX Rule-1 & 2 of the C.P.C subject to the satisfaction of the court with regard to the



existence of a prima facie case. The principle with regard to grant of injunction is no more in dispute since the same has been laid down comprehensively in several judicial pronouncements of the various courts including the Hon'ble Supreme Court.

**18.** A close scrutiny of the impugned order dated 01.05.2026 reveals that in the second paragraph of the order, the learned trial court has specifically referred to the petition under Order-XXXIX Rule-1 & 2 read with Section 151 of C.P.C. He has also indicated the urgency involved in the matter in the impugned order dated 01.05.2026, the learned trial court, after satisfying itself with regard to the existence of grounds for grant of temporary injunction, passed order dated 01.05.2026 restraining the Defendants-Petitioners from proceeding with any disciplinary proceeding against the Plaintiff-Opposite Party. On a careful reading of the impugned order dated 01.05.2026, this Court is of the view that the learned trial court has exercised its power under Section 94 read with Order-XXXIX Rule-1& 2 of the C.P.C., although in the operative portion of the order, it has been



specifically mentioned that the power has been exercised under Section 151 of the C.P.C.

**19.** While carefully scrutinizing the order dated 01.05.2026, this Court further observes that although summons were issued to the Defendants-Petitioners, however Defendants-Petitioners did not choose to appear before the learned trial court on the date and time fixed in the summons i.e. on 01.05.2026. There is no dispute with regard to the fact that summons were duly served on the Defendants-Petitioners. In the aforesaid scenario, the learned trial court, keeping in view the provision contained in Section-94 of the C.P.C, thought it proper to protect the subject matter of dispute by passing an ex parte ad-interim injunction order to prevent the ends of justice being defeated by the conduct of the Defendants-Petitioners. The conduct of the Defendants-Petitioners compels this Court to draw an adverse inference against them to the effect that despite valid service of summons they did not appear before the learned trial court and did not take any steps. It can also be inferred from the conduct of the Defendants that they wanted to push the matter further to avoid



any kind of adjudication on the interim application filed by the Plaintiff seeking interim protection. Under such circumstances, this Court cannot hold that the learned trial court was devoid of the power to protect the Plaintiff-Opposite Party keeping in view the larger interest of justice. Thus, this Court has no hesitation in coming to a conclusion that the learned trial court has not committed any illegality in passing the ex parte ad-interim injunction order to protect the Plaintiff till final hearing of the injunction application pending before it. The provisions contained in Section-94 read with Order-XXXIX Rule-1 & 2 of C.P.C confers abundant powers on the learned trial court to pass any interim/interlocutory/temporary injunction order.

**20.** On a careful analysis of the provision contained in Section-94 of the C.P.C read with the provisions contained in Order-XXXIX thereof, this Court is of the view that the learned trial court need not dispose of the supplemental proceeding in the shape of an application under Order-XXXIX Rule-1 & 2 of C.P.C. to safeguard the interest of the parties or to secure the ends of justice. In the course of hearing of such temporary injunction



application or an application seeking interim relief, which is definitely a supplemental proceeding, the learned trial court can very well pass interim order/grant ad-interim injunction to safeguard the subject matter of the suit till disposal of the application under Order-XXXIX Rule-1 & 2 of the C.P.C. For the aforesaid purpose, the learned trial court is not required to fall back upon Section 151 of C.P.C and it is also not required to exercise its inherent power as the provisions contained in the statute sufficiently covers the scenario that has arisen in the present case.

**21.** With regard to the last point that has been raised by Mr. Sahoo, learned Senior Counsel appearing for the Petitioners, i.e. the maintainability of the suit in view of the provisions contained in Section 430 of the Companies Act, 2013, this Court would like to observe that the said issue can very well be raised before the learned trial court and, in the event any such question is raised, the learned trial court would definitely deal with the same strictly in accordance with law. Such a question raised by the learned Senior Counsel appearing for the Petitioners need not be



answered by this Court at this stage of proceeding when the application under Order-XXXIX Rule-1 & 2 of C.P.C. is still pending for final consideration.

**22.** In view of the aforesaid analysis of the legal as well as factual position, and on a careful scrutiny of the impugned order dated 01.05.2026 passed by the learned First Civil Judge (Junior Division), Cuttack, this Court is of the considered view that the learned trial court has not committed any illegality in passing the order dated 01.05.2026 although this Court holds that such order should have been under Order-XXXIX Rule-1 & 2 of C.P.C instead of Section 151 thereof. Moreover, the grant of injunction being a discretionary order, this Court in exercise of power under Article 227 of the Constitution of India refrains from exercising its jurisdiction. As such, the impugned order dated 01.05.2026 does not call for any interference by this Court. Since the parties have already appeared before the learned trial court in the pending Interlocutory Application, this Court directs the learned trial court to expedite the hearing of the Interlocutory Application under Order-XXXIX Rule-1 & 2 of C.P.C. and make every



endeavour to dispose of such application as expeditiously as possible, preferably within a period of six weeks from the date of communication of a copy of this judgment.

23. Accordingly, this Court finds no merit in the contention raised by the learned Senior Counsel appearing for the Petitioners. Hence, the CMP stands dismissed.

*(A. K. Mohapatra)*  
*Judge*

Orissa High Court, Cuttack  
The 25<sup>th</sup> June, 2026/Debasis Aech, Secretary.