



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1375 OF 2026

(An application under Articles 226 and 227 of the Constitution of India)

Nibedita @ Nivedita Panigrahi ***Petitioner***

-Versus-

- 1. State of Odisha, represented through its
Principal Commissioner-Cum-Secretary,
Revenue & Disaster Management Deptt., Khordha***
- 2. The Collector & District Magistrate,
Balasore***
- 3. Executive Engineer, Soro Canal Division,
Balasore***
- 4. Special Land Acquisition Officer,
Anandapur Barrage Project Soro, Balasore***
- 5. Deba Dutta Ratha***
- 6. Annapurna Satapathy @ Pati***
- 7. Arati Mishra @ Pati*** ***Opp. Parties***

Advocates appeared:

For Petitioners : Mr. Sourav Suman Bhuyan, Advocate

For Opp. Parties : Mr. Siba Narayan Biswal
Additional Standing Counsel
Mr. Amit Prasad Bose, Advocate
Along with Mrs. Debadeepta Sahoo,
Advocate (For O.P. No.5)
Mr. MD. Golam Madani, Advocate
(For O.P. No.6)



CORAM:

**MR. JUSTICE K.R. MOHAPATRA
MR. JUSTICE SANJAY KUMAR MISHRA**

Heard & Disposed of on: 30.06.2026

JUDGMENT

By the Bench;

1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition seeks to assail the order dated 08.12.2025 (Annexure-8) passed by the LAR & R Authority, Cuttack in LA Reference Case No.185 of 2024, whereby an application filed by the Petitioner to stay further proceedings of the reference (LA Reference Case No.185 of 2024) till adjudication of CS Case No.105 of 2025, pending in the Court of learned Civil Judge (Senior Division), Nilgiri, stood rejected.
3. Mr. Bhuyan, learned Counsel for the Petitioner submits that the Petitioner and Opposite Party Nos.6 & 7 are three sisters and Opposite Party No.5 is the son of another sister of the Petitioner namely, Rebati Ratha. The Petitioner, Opposite Party Nos.6 & 7 and Mother of the Opposite Party No.5 are daughters of late Harekrushna Pati. Late Harekrushna Pati and Nityananda Pati had some ancestral properties. During lifetime of said Harekrushna and Nityananda, Title Suit No.53 of 1981 was filed before the learned Civil Judge (Senior Division), Baripada, which was disposed of on compromise. Accordingly, the final decree was drawn up allotting separate shares to Harekrushna Pati and Nityananda Pati.



3.1. Late Harekrushna Pati had properties in the district of Mayurbhanj and Balasore. After death of Harekrushna in the year 1985, his properties were inherited by Chhayamani Pati, his widow and four daughters, as stated above. Chhayamani Pati died in the year 2008, where as Rebati died in the year 2013.

3.2. Subsequently, the son of Rebati namely, Deba Dutta Ratha- Opposite Party No.5 filed Civil Suit No.304 of 2019 in the Court of learned Civil Judge (Senior Division), Baripada for partition of the properties situated in the district of Mayurbhanj. In the said suit, the Petitioner, being a defendant, appeared and filed her written statement along with counter claim. In the counter claim, the Petitioner intended to include the properties in the district of Balasore. Although the Written Statement filed by the Petitioner was accepted but her counter claim was rejected.

3.3. Assailing the same, the Petitioner preferred CMP No.328 of 2020 before this Court. During pendency of the aforesaid CMP, the suit, i.e., Civil Suit No.304 of 2019, was decreed *ex-parte*. A petition under Order 9 Rule 13 of CPC was filed by the Petitioner for setting aside the said *ex-parte* decree. Thus, the CMP was disposed of on 04.05.2022 with a liberty to the Petitioner to renew her prayer made in the CMP in the event the petition under Order 9 Rule 13 CPC is allowed. The petition under Order 9 Rule 13 CPC was subsequently allowed and the *ex-parte* decree was set aside by learned Civil Judge (Senior Division), Baripada vide order dated 22.09.2023. But the Petitioner, instead of renewing her prayer before this Court, filed another Counter claim by way of an amendment reiterating the self-same prayer. Said petition was rejected vide order dated 01.03.2024 of learned Civil Judge (Senior Division), Baripada with a liberty to the Petitioner to file a separate



suit at Nilgiri in the district of Balasore, under whose local jurisdiction, the suit property of Balasore district situates.

4. In the said suit, the Petitioner prayed for a decree of partition along with a prayer to set aside the sale deed and gift deed executed in favour of the Opposite Party No.5 to be null and void. The said suit is still pending before the learned Civil Judge (Senior Division), Nilgiri.

5. It is submitted by learned Counsel for the Parties that the written statement has already been filed in the said suit and the suit is ready for hearing.

6. In the meantime, some of the schedule properties of Civil Suit No.105 of 2025 were acquired under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the Act') for Salandi Left Bank Canal Project. Award under the Act was passed. Being not satisfied, the Petitioner filed an application under Section 64 of the Act and entertaining such application, the Collector referred the matter to the Court of LAR & R Authority, Cuttack which has been registered as LA Case No.185 of 2024.

7. During pendency of the said reference, an application was filed by the Petitioner to stay further proceeding of the reference till disposal of Civil Suit No.105 of 2025 pending in the Court of learned Civil Judge (Senior Division), Nilgiri. The said application was rejected vide the impugned order under Annexure-8 holding that the issues involved in Civil Suit No.105 of 2025 and LA reference proceeding are not directly and substantially the same.

8. It was further held vide the said order that law does not confer any jurisdiction on the Civil Court to try the issue of



apportionment of land acquisition compensation as the Civil Court and LAR & R Authority don't have concurrent jurisdiction to try a particular disputed question raised before the Authority so as to render a conflicting judgment. Once it is concluded that the proceeding before LAR & R Authority cannot be equated with the proceedings before the Civil Judge Sr. Division, Nilgiri, Section 10 of CPC has no application. That apart, it was held that Section 9 of CPC operates as a bar to the Civil Court to take cognizance over the matter *sub-judice* before the LAR & R Authority in view of the provision under Section 63 of the Act. Assailing the same, the Petitioner has preferred this writ petition.

9. While issuing notice in the matter, this Court, vide order dated 17.02.2026, as an interim measure, directed stay of further proceedings in LA Reference Case No.185 of 2024 pending before learned LAR & R Authority, Cuttack. The said interim order is still in vogue.

10. In due course, the matter was taken up on 06.04.2026, when this Court adjourned the matter with a liberty to learned Counsel for the Petitioner to apprise the Court as to whether, in a proceeding under Section 64 of the Act, the Authority has any jurisdiction to go into the validity of an instrument by which a right in the property acquired has been conveyed to a party.

11. Mr. Bhuyan, learned Counsel for the Petitioner fairly concedes that validity of a document cannot be examined in a proceeding under Section 64 of the Act. Mr. Bhuyan, learned Counsel also refers to the provision under Section 67 of the Act and submits that the Authority, while adjudicating a reference, is competent to consider the interest of the person affected by the objection and not otherwise.



12. He, however, submits that if the reference is decided during pendency of Civil Suit No.105 of 2025 then it would be difficult on the part of the Petitioner to get her share in the land acquisition compensation, even if she succeeds in the suit. It is his submission that in all fairness, the LAR and R Authority should wait for decision of Civil Suit No.105 of 2025 for complete adjudication of the *lis* between the parties.

13. He, therefore, prays for a direction to set aside the order under Annexure-8 and stay further proceeding of LA Reference Case No.185 of 2024, pending before learned LAR and R Authority, Cuttack, till disposal of Civil Suit No.105 of 2025.

14. Mr. Bose, learned Counsel for the Opposite Party No.5 has serious objection to the submission of Mr. Bhuyan learned Counsel for the Petitioner. It is his submission that neither the prayer of the Petitioner is governed under Section 10 of the CPC nor the LAR & R Authority has any jurisdiction to go into the validity of a document. Adjudication of a reference under Section 64 of the Act does not depend upon adjudication of any suit in view of section 63 of the Act. Thus, adjudication of the instant reference is not dependent upon adjudication of Civil Suit No.105 of 2025. Thus, the prayer made by Mr. Bhuyan, learned Counsel for the Petitioner is misconceived and the writ petition is not maintainable. He, therefore, prays for dismissal of the writ petition.

15. Mr. MD. Golam Madani, learned Counsel for the Opposite Party No.6, supports the case of the Petitioner and submits that an identical application for stay of the Suit was also filed by the Opposite Party No.6, which was rejected vide a common order under Annexure-8.



16. Heard learned Counsel for the parties. Perused the documents relied upon by learned Counsel for the parties.

17. Learned Counsel for the parties also drew attention to different provisions of the Code of Civil Procedure, 1908 and the Act. Upon hearing learned Counsel for the parties and appreciating the nature of *lis* involved, this Court feels that in order to meet the ends of justice, a pragmatic approach should be adopted by the Court to make an endeavour to end the difference between the parties, who are offsprings of common ancestor, namely, late Harekrushna Pati.

18. It is the admitted case of both the parties that the property in question belonged to common ancestor, late Harekrushna Pati, who died in the year 1985 leaving behind his widow Chhayamani and four daughters namely, the Petitioner, Opposite Party Nos.6 and 7 and Rebati Ratha. Chhayamani Pati died in the year 2008. Rebati died in the year 2013 leaving behind the Opposite Party No.5 as her legal heir. Purportedly, a sale deed and a gift deed in respect of the properties in the district of Balasore were executed by late Harekrushna Pati in favour of the Opposite Party No.5. The validity of those deeds is in question in CS Case No.105 of 2025. It is submitted by learned Counsel for the parties that the suit is ready for hearing. In that view of the matter, this Court feels that if the suit is disposed of at an early date, the reference under Section 64 of the Act pending before the LAR & R Authority, Cuttack may be adjudicated effectively.

19. Learned Counsel for the parties submit that they shall cooperate with the Court namely, learned Civil Judge (Senior Division), Nilgiri for early disposal of CS Case No.105 of 2025. Since a portion of the schedule properties of CS Case No.105 of



2025 has already been acquired and an Award under the provisions of the Act has already been passed, which is pending in a reference for enhancement and apportionment of the compensation, interest of justice will be best served, if the Civil Suit is adjudicated at an early date.

20. Accordingly, this Court without expressing any opinion on the merits of the contentions raised by learned counsel for the parties, directs that CS Case No.105 of 2025 shall be disposed of as expeditiously as possible, preferably within a period of six months from the date of production of the certified copy of this order. Parties are directed not to seek for unnecessary adjournments and cooperate with the learned Civil Judge (Senior Division), Nilgiri for early disposal of CS Case No.105 of 2025. It is further directed that after disposal of the CS Case No.105 of 2025, the learned LAR & R Authority, Cuttack shall proceed with the reference, i.e., LA Reference Case No.185 of 2024, taking into consideration the judgment and decree passed in said CS Case No.105 of 2025.

21. Learned Civil Judge (Senior Division), Nilgiri shall dispose of the Suit and the learned LAR & R Authority, Cuttack shall dispose of the Reference on their own merit keeping in mind the observations and directions made hereinabove. In view of the observations made hereinabove, this Court makes it clear that it has not expressed any opinion on the merit of the order impugned herein.



22. With the aforesaid observations and directions, the writ petition is disposed of accordingly.

23. Interim order dated 17th February, 2026 passed in I.A. No.916 of 2026 stands vacated.

Urgent certified copy of this judgment be granted on proper application.

(K.R. Mohapatra)
Judge

(S.K. Mishra)
Judge

*Orissa High Court, Cuttack,
Dated 30th June, 2026/Banita*

Signature Not Verified

Digitally Signed
Signed by: BANITA PRIYADARSHINI PALEI
Designation: SR. STENOGRAPHER
Reason: AUTHENTICATION
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 07-Jul-2026 17:16:45