



IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P No.1400 of 2026

CNR No.ODHC010621212026

Madan Mohan Pradhan* *Petitioner(s)

Mr. Dwarika Prasad Mohanty, Adv.

-versus-

***Durga Charan Bal &
Ors.***

.... Opposite Party(s)

Mr. Bhubaneswar Dash, Adv.

(for O.P. Nos.1 to 6)

CORAM:

HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

Order No.

01.

ORDER

02.09.2026

1. This matter is taken up through hybrid arrangement.
2. By filing the present CMP, the Petitioner, Madan Mohan Pradhan, who is the Defendant No.3 in the trial Court has assailed the orders dated 15.04.2026 and 31.07.2026 passed by the learned 2nd Addl. Senior Civil Judge, Bhubaneswar in C.S. No.647 of 2003 under Annexures-3 & 6 respectively.
3. Heard learned counsel for both the parties.
4. Learned counsel for the Petitioner submits that the present Petitioner is the Defendant No.3 and Opposite Party Nos.1 to 6 are the plaintiffs in the above suit. Learned counsel submits that the impugned orders dated 15.04.2026 and



31.07.2026 passed by the learned Trial Court are illegal, erroneous and liable to be set aside. It is submitted that the Petitioner/Defendant No.3 had filed an application under Order XVI Rule 1 read with Section 151 CPC for summoning the Revenue Inspector, Patrapada, along with the original counterfoil of the rent receipt dated 15.09.2000 relating to the suit property.

5. It is submitted that the earlier application filed by the Petitioner was rejected mainly because the date of the rent receipt was inadvertently mentioned as 09.06.2000 instead of 15.09.2000. The subsequent application was filed with the correct particulars and was bona fide, but the learned trial Court mechanically rejected the same merely on the ground that an earlier application had already been rejected.

6. Learned counsel further submits that the certified copy of the rent receipt dated 15.09.2000 has already been marked as Ext. B in the present suit, though with objection. The said document was obtained from the record of connected C.S. No.646 of 2003, wherein the concerned Revenue Inspector had produced the original counterfoil from the official record and the same was admitted in evidence as Ext. F. Therefore, the existence and relevance of the original document are established.



7. It is further submitted that since Ext. B is a certified copy and has been marked with objection, the Petitioner is entitled to seek production of the original/primary document so that its admissibility and evidentiary value may be properly considered by the learned trial Court. The original counterfoil is a material document having direct bearing on the Petitioner's defence, particularly as it shows payment of rent by Defendant Nos.1 and 2, the vendors of the Petitioner, prior to the sale in favour of the Petitioner.

8. Learned counsel submits that the application was filed under Order XVI Rule 1 read with Section 151 CPC with the bona fide object of placing the best available evidence before the Court. There is no question of causing any prejudice to the Plaintiffs, as they would have full opportunity to inspect the document, raise objections and cross-examine the concerned witness.

9. It is also submitted that even if there was some delay, such delay by itself cannot be a ground for refusing production of a material document when the same is relevant for proper adjudication of the real controversy between the parties. The learned trial Court ought to have exercised its jurisdiction in furtherance of the cause of justice rather than rejecting the application on a technical ground.



10. Accordingly, learned counsel for the Petitioner submits that the impugned orders suffer from material irregularity and failure to exercise jurisdiction vested in the Court, and therefore the same may kindly be set aside and the learned trial Court may be directed to summon the Revenue Inspector, Patrapada, along with the original counterfoil of the rent receipt dated 15.09.2000, in the interest of justice.

11. The supervisory jurisdiction under Article 227 of the Constitution of India is not an appellate jurisdiction and it is not available to correct every error of fact or of law committed by a subordinate Court. An order passed by a trial Court in exercise of a discretion vested in it can be interfered with only where the discretion has been exercised arbitrarily or capriciously or in disregard of settled principles or where the order results in a manifest failure of justice. Where two views are possible and the trial Court has taken one of them this Court would be slow to substitute its own view merely because a different order could also have been passed.

12. The relief sought by the Petitioner before the learned trial Court was for summoning the Revenue Inspector, Patrapada along with the original counterfoil of the rent receipt dated 15.09.2000. Though the application was filed under Order XVI Rule 1 read with Section 151 CPC, the substance of the prayer was for compelling a public officer to attend and produce a



document from official custody which is a matter falling within Order XVI Rule 6 read with Rule 1(3) CPC. The form of the application is not decisive but what is material is that the power to summon a witness who does not figure in the list filed after settlement of issues is a discretionary power to be exercised on the trial Court only after it is satisfied that good cause exists and that the evidence is necessary for a just decision of the suit.

13. Further, the admitted position is that the very document which is sought for production is already on the record of the suit. The certified copy of the rent receipt dated 15.09.2000 stands marked as Ext. B. The counterfoil is retained in the office of the Revenue Inspector and forms part of a record maintained by a public officer in the discharge of his official duty and a certified copy of such a record may itself be given in evidence in proof of the contents of the original under the provisions relating to public documents and certified copies contained in the Indian Evidence Act, 1872 and correspondingly in the Bharatiya Sakshya Adhiniyam, 2023. The law therefore does not compel the production of the original as a condition of proof and the Petitioner is not disabled from placing the contents of the counterfoil before the learned trial Court by reason of the original remaining in official custody.



14. The circumstance that Ext. B has been marked subject to objection does not carry the matter further for the Petitioner. When a document is admitted subject to objection, it remains alive and is required to be decided by the trial Court at the time of the final judgment when the evidence is appreciated as a whole. The apprehension of the Petitioner that Ext. B may be discarded on the objection raised by the Plaintiffs is therefore premature. The mere raising of an objection by the opposite party does not oblige the trial Court to reject the document nor does it create a necessity for summoning the original at an intermediate stage of the trial.

15. It is also of significant that the original counterfoil was produced by the concerned Revenue Inspector from the official record in a connected C.S. No.646 of 2003 and it was admitted in evidence as Ext. F in the said case and the certified copy now marked as Ext. B has been obtained from that very record. The provenance of Ext. B is thus traceable to a judicial record in which the original stood produced by the custodian himself. The genuineness of the document is in that view of the matter supported and not weakened by the material already available and the summoning of the Revenue Inspector once again would serve no purpose beyond a formal repetition of what the record already discloses.



16. So far as the challenge to the order dated 31.07.2026 is concerned, the grievance of the Petitioner is that the corrected application was rejected only on the ground that an earlier application had been rejected. Even proceeding on the same footing, the correction of the date from 09.06.2000 to 15.09.2000 was bona fide and that the second application was not a mere repetition of the first, the ultimate order refusing the prayer is sustainable for the reasons already indicated.

17. An order which is otherwise justified in law does not become liable to be set aside in the supervisory jurisdiction merely because the reasons assigned in support of it are brief or could have been better articulated. What this Court is required to see is whether the refusal has occasioned a failure of justice and on the material placed it has not.

18. The stage of the proceeding is not an irrelevant consideration either. C.S. No.647 of 2003 has been pending for over two decades and the evidence has advanced considerably. A trial Court dealing with an application of this kind, is entitled to weigh the necessity of the evidence sought to be introduced against the delay that its introduction would entail. Where the document is already on the record in a form which the law recognises as admissible the trial Court, cannot be said to have acted with material irregularity in declining to reopen the matter for procuring the original.



19. The Petitioner is in no manner remediless. The purpose for which the document is relied upon namely to establish payment of rent by Defendant Nos.1 and 2 who are the vendors of the Petitioner prior to the sale in his favour can be pressed on the strength of Ext. B.

20. The Petitioner is at liberty to advance all such contentions on its admissibility and evidentiary value at the time of the final hearing including the contention that the original was produced from official custody and exhibited in the connected suit. The learned trial Court shall consider those contentions on their own merits uninfluenced by the impugned orders and by anything said in this order.

21. In the result this Court finds no material irregularity and no failure to exercise jurisdiction vested in the learned trial Court in the orders dated 15.04.2026 and 31.07.2026 passed in C.S. No.647 of 2003. The impugned orders do not suffer from any perversity warranting interference under Article 227 of the Constitution of India. The CMP is accordingly dismissed. There shall be no order as to costs. Having regard to the age of the suit the learned trial Court is requested to conclude the trial and dispose of C.S. No.647 of 2003 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

Signature Not Verified

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Reason: Authentication
Location: HIGH COURT OF
ORISSA, CUTTACK
Date: 03-Sep-2026 17:58:55



22. With this observation and direction, the CMP stands disposed of.
23. Pending application (s), if any, shall stand disposed of.
24. Issue urgent certified copy of this order as per Rules.

(Dr. Sanjeeb K Panigrahi)
Judge

Sipun