

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 173 OF 2022

Prafulla Kumar Parida ***Petitioner***

Mr. Prasanta Kumar Sahoo, Advocate

-versus-

Urmila Parida and another ***Opp. Parties***

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
02.11.2022**

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this RPFAM seeks to assail the order dated 27th June, 2022 (Annexure-1) passed by learned Judge, Family Court, Bhadrak in Cr.P.(Execution) No.32 of 2020, whereby an objection with regard to maintainability of the execution petition has been rejected.
 3. In course of hearing, Mr. Sahoo, learned counsel for the Petitioner submits that although learned executing Court cannot go behind the order sought to be executed and test its legality, but the executability of the order can be gone into by learned Judge, Family Court, Bhadrak. In the meantime, the Petitioner has paid a sum of Rs.25,000/- to the Opposite parties pursuant to the distress warrant issued against him. Hence, Mr. Sahoo, learned counsel submits that interest of justice will be best served, if the Petitioner files an affidavit before learned Executing Court detailing the amount liable to be paid by him

and the amount he has already paid to the Opposite Parties and prays for a direction to learned Judge, Family Court, Bhadrak to consider the same before passing any final order in the execution proceeding.

4. In view of the submission made by learned counsel for the Petitioner, this Court without delving into the merits of the order under Annexure-1 (impugned herein), disposes of the RPFAM with a direction that in the event, the Petitioner files an affidavit detailing the amount liable to be paid by him to the Opposite Parties and the amount already paid by him in the meantime, learned Judge, Family Court, Bhadrak shall do well to consider the same giving opportunity of hearing to the parties concerned before passing any final order in the execution proceeding.

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

(K.R. Mohapatra)
Judge

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