

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 948 OF 2022

M/s. P.K. Enterprises and another ***Petitioners***
Mr. Bibekananda Bhuyan, Advocate
-versus-

Suresh Chandra Panda ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
28.09.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this CMP seek to assail the order dated 23rd September, 2022 (Annexure-10) passed by learned District Judge, Cuttack in Civil Revision Petition No.06 of 2022, whereby an application for stay of Execution Case No.20 of 2020 has been rejected.
3. In course of hearing, Mr. Bhuyan, learned counsel for the Petitioners submits that the only ground on which the petition for stay of execution proceeding was rejected is that in R.F.A. No.18 of 2020, learned 1st Additional District Judge, Cuttack vide his order dated 22nd July, 2022 had passed an order of conditional stay of execution proceeding. Thus, revisional Court refused to entertain another application for stay, when an order of conditional stay of execution proceeding is in force.
4. It is his submission that pursuant to the said order, the Petitioners-J.Drs had already deposited the security covering the decretal amount. So far as payment of Rs.15,000/- per month to the Opposite Party is concerned, the Petitioners are ready and willing to deposit the same before learned executing Court because, if it is paid to the Opposite Party, it will be very

difficult on the part of the Petitioners to recover the same in the event of they succeed in the appeal. He further submits that assailing the said conditional order of stay, the Petitioners have filed CMP No.779 of 2022, which is pending before this Court. In view of the above, the Petitioners are not in a position to move another application in R.F.A. No.18 of 2020.

5. Taking into consideration the submission made by learned counsel for the Petitioners, this Court feels that interest of justice will be best served, if the Petitioners comply with the direction dated 22nd July, 2022 passed by learned 1st Additional District Judge, Cuttack in R.F.A. No.18 of 2020 for stay of execution proceeding without prejudice to their case till disposal of CMP No.779 of 2022.

6. Accordingly, this CMP is disposed of with a direction that in the event the Petitioners, without prejudice to their case, comply with the order dated 22nd July, 2022 passed by learned 1st Additional District Judge, Cuttack in R.F.A. No.18 of 2020, further proceeding in Execution Case No.20 of 2020 shall remain stayed, which shall be subject to any order to be passed in CMP No.779 of 2022.

7. Since this order is passed without serving any notice on the Opposite Party, he is at liberty to move this Court for variation of this order, if he feels aggrieved.

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

(K.R. Mohapatra)
Judge