

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.785 of 2021

***Rourkela Wholesale Consumer Co-
operative Society***

Petitioner(s)

Mr.U.C.Behura, Advocate

- Versus-

***Radhakrishna Education Society
& Ors.***

Opposite parties

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
04.01.2022**

**Order No.
01**

Heard learned counsel appearing for the petitioner.

2. This Civil Miscellaneous Petition has been moved seeking stay of execution proceeding on the premises that in the meantime though the RFA No. 165 of 2007 has been restored by order of this Court passed in CMAPL No.239 of 2019 but the records of RFA has not reached following a direction of this Court to send the first appeal to the concerned District Court for hearing of the matter. This Court finds CMA has been filed even though the petitioner has a scope to obtain stay of execution proceeding by moving appropriate application in First Appeal. It appears, petitioner could not avail such scope for non-receipt of case records in RFA in the Appellate Court. Keeping in view the statement of the petitioner that he shall move for stay before the Appeal forum, pending such action, Registry is directed to ensure sending records in RFA No.165 of 2007 to the concerned District Court within a period of one week, if necessary by special messenger. Petitioner is at liberty to move appropriate application in the first

appellate court. For a period of four weeks there shall be stay of further proceeding in the execution proceeding involved.

3. The CMP stands disposed of with the observation made hereinabove.

Sks

(BISWANATH RATH)
JUDGE

