IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.874 of 2016

CNR No.ODHC010005212016

Munna Majhi and another .... ***Petitioners***

None

-versus-

Dukhia Majhi and another .... ***Opp. Parties***

CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

28.10.2026

(*Hybrid Mode*)

Order No.

13. **1**. None appears for the petitioners when the matter is called.

2. The matter is prioritized and listed at the top of the day's list under the heading "Stayed Matters" and is taken up.

3. The matter was presented before this Court on 01.06.2016. The learned Co-ordinate Bench issued notice on 03.06.2016 and passed order in Misc. Case No.872 of 2016 directing thus:-

> *"There shall be stay operation of the order dated 1.2.2016 passed by the learned Civil Judge (Sr. Division), Rairangpur in Civil Suit No.83 of 2014 under Annexure-5 till next date*."

4. Thereafter, the matter was adjourned on 04.12.2017 by the Petitioners seeking further time to file complete requisites for issuance of notice.

5. On 27.07.2026, the Co-ordinate Bench had directed the following:-

> *"1.This CMP has been filed challenging the order dated 01.02.2016 passed by the learned Civil Judge (Senior Division), Rairangpur in C.S. No. 80 of 2014 rejecting the application under Order 8 Rule 1 of the CPC filed by defendants No. 1 and 2 for acceptance of the written statement.*
> *2. Notice in this application has been issued on 03.06.2016 when further proceeding in the suit has been stayed.*
> *3. Office note indicates that notice to Opposite Party No.2 has been returned unserved with the postal endorsement addressee expired, return to sender and neither AD nor unserved notice has returned from Opposite Party No.l.*
> *4. Mr. Goutam Kumar Routray, learned counsel for the Petitioner submits that since the matter is being listed after almost ten years, he may be granted some time to Obtain instructions regarding status of the suit and take fresh steps for issue of notice / substitution.*
> *5. List this case on 31.07.2026 to enable the Registry to call for a report from the learned Civil Judge (Senior Division), Rairangpur regarding present status of C.S. No. 80 of 2014."*

6. On 31.07.2026, the Co-ordinate Bench had directed the following:-

> "*1.By order dated 27.07.2026, status report had been called for from the learned Civil Judge, Senior Division, Rairangpur.*
> *2. It is apparent that on account of typographical error, in the order "Civil Suit No.83 of 2014" has been mentioned as "Civil Suit No.80 of 2014" and without verifying the record,*

the Registry has called for a report from the learned Civil Judge (Senior Division) in Civil Suit No.80 of 2014.

3. As a result, report pertaining to C.S. No. 80 of 2014 has been received.

4. Without verifying the record, letter has been issued by the Registry calling for the status report and after the report has been received, verification has been done and in the noting it has been mentioned that the names of the parties do not tally and the actual case is C.S. No. 83 of 2014. This is of no help to the Court. So, the matter was passed over to enable the Registry to obtain instructions over phone.

Later

5. Registry has reported that Civil Suit No. 83 of 2014 is still pending in the learned Court below and is posted to 27.08.2026 awaiting further intimation from this Court.

6. Hence, list this case on 07.08.2026.

7. Steps for substitution of Opposite Party No.2 shall be taken and postal requisites along with present correct address of Opposite Party No.1 for issue of notice by Speed Post with AD shall be filed before the next date."

7. On 07.08.2026, the Co-ordinate Bench had directed the following:-

"1.None appears for the Petitioner when the matter is called.

2. On 31.07.2026, time had been granted to the Petitioner to take steps for substitution of Opposite Party No.2 and file postal requisites along with present correct address of Opposite Party No.1 for issue of notice by Speed Post with AD, but the said order has not been complied with.

3. In order to give another chance to learned counsel for the Petitioner, in the interest of justice, list this matter on 13.08.2026."

8. On 13.08.2026, the Co-ordinate Bench had directed the following:-

"1. In spite of order dated 31.07.2026 and order dated 07.08.2026, steps for substitution of Opposite Party No. 2 have not been taken nor have postal requisites along with present correct address of Opposite Party No.1 filed.
2. Mr. Goutam Kumar Routray, learned counsel for the Petitioners prays for four weeks time to take steps.
3. Since this is a matter of 2016 and time has been granted since 31.07.2026, two weeks time is granted to take steps for substitution of Opposite Party No. 2 and to file postal requisites with present correct address of Opposite Party No.1 for issue of notice by Speed Post with A.D.
4. List this matter on 27.08.2026.
5. If steps for substitution are not taken nor requisites are filed, this Court will consider dismissing the case for non-prosecution on that date.
6. Interim order passed earlier shall continue till the next date.
7. On account of typographical error in order dated 27.07.2026, the Registry had called for a status report in Civil Suit No.80 of 2014. Status of Civil Suit No.83 of 2014 was obtained over telephone on 31.07.2026. As the case is adjourned today. Registry is directed to call for a report from the learned Civil Judge (Senior Division), Rairangpur regarding present status in Civil Suit No. 83 of 2014 and the developments if any, which have taken place in the suit after the impugned order dated 01.02.2016 was passed in the suit."

9. By order dated 27.08.2026, the Co-ordinate Bench had directed the following:-

> *"3.On 13.08.2026, although learned counsel for the Petitioner had prayed for four weeks' time to take steps, two weeks' time had been granted to him as this was a case of the year 2016.*
>
> *4. As the matter is being adjourned on account of discrepancies in the report of the learned Trial Court, it is open to the learned counsel for the Petitioner to take steps for substitution of the Opposite Party No.2 and file requisites with present correct address of Opposite Party No.1 before the next date, in case he wants to continue with the CMP."*

10. By order dated 10.09.2026, the following was observed by the Co-ordinate Bench:

> *"5. As office note indicated unserved notice had been returned from Opposite Party No.2 with a noting expired, on 27.07.2026, Mr. G.K. Routray, learned counsel for the Petitioners had prayed for some time to obtain instructions regarding status of the suit and to take fresh steps for issue of notice/ substitution as the matter was listed after almost 10 years. The matter was adjourned to 31.07.2026 to enable the Registry to call for a report from the learned Civil Judge (Senior Division), Rairangpur regarding present status of the suit.*
>
> *6. On 31.07.2026, the matter had been adjourned to 07.08.2026 directing that the steps for substitution of Opposite Party No.2 shall be taken and postal requisites along with present correct address of Opposite Party No.l by Speed*

Post with A.D. shall be filed before the next date.

7. On 07.08.2026, no counsel had appeared on behalf of the Petitioners. In order to give another chance to the learned counsel for the Petitioners, the matter had been adjourned to 13.08.2026.

8. On 13.08.2026, Mr. G.K. Routray, learned counsel for the Petitioners had prayed for four weeks time to take steps. As it was a matter of 2016 and time had been granted since 31.07.2026, two weeks time was granted to take steps for substitution of Opposite Party No.2 and to file postal requisites with present correct address of Opposite Party No.l for issue of notice by Speed Post with A.D. As it was found that the report of the learned Senior Civil Judge was a casual one with discrepancy in dates, he was directed to submit an explanation along with the scanned copy of the ordersheet containing orders passed after 01.02.2016. The scanned copy of the order sheet was called for, and the case adjourned to 27.08.2026.

xxx xxx xxx xxx

11. Considering the fact that this is a case of the year 2016 and time had been granted since 27.07.2026.

12. List this matter on 22.09.2026 as a last chance.

13. Interim order passed earlier stands vacated.

14. Copy of such letter should have been sent much earlier."

11. On 22.09.2026, none had appeared for the Petitioners and the following order was passed: -

"To grant further opportunity the matter shall be listed "For Orders" in the week commencing 05.10.2026."

12. On 09.10.2026, none appeared for the Petitioners, still showing indulgence the matter was adjourned and the following order was passed:-

> *"1. None appears for the petitioners when the matter is called.*
> *2. The matter is pending since 2016. Steps for substitution of opposite party no.2 has not been taken. No postal requisites for issuance of notice has been filed in the present correct address of opposite party no.1.*
> *3. The prayer in the petition is to set aside the order dated 01.02.201-6 passed by the learned Civil Judge (Senior Division), Rairangpur in C.S. No.83 of 2014. By the said order, the petition filed by the defendant Nos. 1 and 2 under Order VIII Rule 1 of CPC was rejected. Pursuant to the order of this Court dated 27.07.2026 the status of C.S. No.83 of 2014 has been called for which is posted to 27.08.2026 as intimated by the learned Civil Judge (Senior Division), Rairangpur. Regarding status of C.S. No.80 of 2014, it is indicated as per the letter of the learned Civil Judge (Senior Division), Rairanghpur dated 30.07.2026, the suit was dismissed on 04.11.2015 due to default of the plaintiffs.*
> *4. Since the interim order was passed by this Court directing stay of order dated 01.02.2016 passed by the learned Civil Judge (Senior Division), Rairangpur in C.S. No.83 of 2014, the matter shall be prioritized and listed under the heading 'Stayed Matters' on 15.10.2026."*

13. From the report received from the learned Civil Judge (Senior Division), Rairangpur, it apparent that the suit is languishing for the last 14 years after interim order was granted by this Court. After

the interim order was vacated by order of learned Co-ordinate Bench on 10.09.2026, still the matter has not proceeded further.

Let the learned Civil Judge (Senior Division), Rairangpur be intimated that the stay order is vacated.

14. In view of the last chance granted by order dated 10.09.2026 directing the matter to be listed on 22.09.2026 no further indulgence should have been shown. However, this Bench has granted further opportunity by order dated 22.09.2026 and 09.10.2026. In view of the complete indifference shown by the Petitioners in prosecuting the matter and not complying with this Court's order repeatedly, it is apparent that the Petitioners have lost interest in prosecuting the matter.

15. Accordingly, the matter is dismissed for non-prosecution.

Interim orders as passed earlier stand vacated.

16. Copy of this order shall be forwarded to the learned Civil Judge (Senior Division), Rairangpur, Mayurbhanj to be kept in the records of C.S. No.83 of 2014. The suit being twelve years old shall be expedited.

Signature Not Verified
Digitally Signed
Signed by: JYOSTNARANI MAJHEE
Reason: Authentication
Location: OHC
Date: 31-Oct-2026 15:58:21

Jyostnarani Majhee

(Mruganka Sekhar Sahoo)
Judge