IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17010 of 2010

CNR No.ODHC010007082010

Shri Bairagi @ Bansidhar Behera .... ***Petitioner***

Mr. Nikhlesh Mohanty, Advocate on behalf of
Mr. Soumya Mishra, Advocate

-versus-

Sri Lakshmidhar Behera .... ***Opp. Parties and others***

Mr. Maheswar Mohanty, Advocate
(for O.P. Nos.5 and 6)
Mr. Abhijit Mohanty, Advocate on behalf of
Mr. P.C. Jena, Advocate (for O.P. No.8)

CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

11.11.2026

(*Hybrid Mode*)

Order No.

05. **1**. The matter is prioritized and listed at the top of the list being of the year 2010 having been presented on 30.09.2010.

2. It is submitted by the learned counsel, Mr. Mohanty for the petitioner that he has been entrusted with the brief from his chamber. He further submitted that despite best efforts the petitioner remains incommunicado.

3. Memo of date is filed on behalf of the learned counsel for the petitioner which states thus:

> *"In the above mentioned case there is no instruction from petitioner (client), as such, this Hon'ble Court may pass appropriate order"*

The memo shall be taken on record. Scanned copy be updated.

4. On 06.10.2026, the following order was passed:

> "2. The learned counsel Ms. Rout submits that she has been entrusted the brief in absence of the learned counsel who were appearing earlier from her chamber, now the chamber of Mr. Soumya Mishra, learned Advocate.
>
> 3. The matter was presented before this Court on 30.09.2010. Thereafter it was adjourned on 04.10.2010 by the petitioner. On 23.11.2010 notices were issued to the Opposite Parties as such there was no interim order by this Court.
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> 4. It is submitted by the learned counsel for the Petitioner that the Petitioner before this Court is the plaintiff before the learned Civil Judge (Senior Division), Baleshwar in C.S. No.1179 of 2007(I). Along with the said Suit an application under Order 39 Rules 1 & 2 of the CPC was filed by filing Misc. Case No.449 of 2008. The prayer for relief under Order 39 Rules 1 & 2 of the CPC was rejected. The said order rejecting the prayer was challenged by filing FAO before the learned District Judge, Baleshwar in Misc. Appeal No.135 of 2008. The judgment dated 20.09.2010 in Misc. Appeal No.135 of 2008 is under challenge before this Court.
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> It is submitted by Ms. Rout, learned counsel that despite efforts contact the Petitioner, he remain incommunicado. She seeks adjournment to obtain up-to-date instructions.
>
> 5. Mr. Maheswar Mohanty, learned counsel for the Opposite Party Nos.5 & 6 also seeks adjournment as he has no up-to-date instructions from the said Opposite Parties.
>
> 6. Mr. Abhijit Mohanty, learned counsel appearing on behalf of Mr. P.C. Jena, learned counsel for the Opposite Party No.8 also makes a

similar submission that they have up-to-date instructions from the said Opposite Party."

5. Pursuant to the order of this Court dated 06.10.2026, learned 1st Additional Senior Civil Judge, Balasore by letter no.448 dated 05.11.2026 has intimated the following:

> *"...Civil Suit No.1179/2007 has already been disposed of as dismissed for default of the plaintiff on 20.07.2026 and consigned to the District Record Room, Balasore..."*

6. The challenge in the writ petition is to the order dated 06.12.2008 passed by the learned Civil Judge (Sr. Division), Balasore in I.A. No.449/2008 arising out of C.S. 1179/2007 (I) under Order XXXIX Rules 1 and 2 of the C.P.C. and the order dated 20.09.2010 passed by the learned District Judge, Baleswar-Bhadrak, Baleswar in Misc. Appeal No.135 of 2008.

7. In view of the above developments, nothing survives for adjudication in the writ petition.

8. The writ petition is accordingly disposed of.

9. Copy of this order shall be forwarded to the learned 1st Additional Senior Civil Judge, Balasore to be kept in the files of C.S. 1179/2007.

(Mruganka Sekhar Sahoo)
Judge

Signature Not Verified
Digitally Signed
Signed by: JYOSTNARANI MAJHEE
Reason: Authentication
Location: OHC
Date: 13-Nov-2026 17:12:51