A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.775 of 2024

(In the matter of an application under Article 227 of the Constitution of India)

Rasbihari Pradhan .... ***Petitioner***

-versus-

Major Kamal Kanta Das and others .... ***Opposite Parties***

Appeared in this case:-

For Petitioner	:	Mr. B. Bhuyan, Sr. Advocate assisted by Ms. S. Sahoo, Advocate
For Opposite Parties	:	Mr. S.N. Subudhi, Advocate and Mr. M.K. Panda, Advocate (For the Opposite Party Nos.1 to 6)

CORAM:
JUSTICE A.C. BEHERA

JUDGMENT
Date of hearing : 16.03.2026 / date of judgment : 10.04.2026

A.C. Behera, J. This Civil Miscellaneous Petition under Article 227 of the Constitution of India, 1950 has been filed by the petitioner(defendant in the suit vide C.S. No.1825 of 2023) against the Opposite Parties(plaintiffs) praying for quashing(setting aside) the impugned order dated 06.01.2024 (Annexure-4) passed in I.A. No.01 of 2023 arising out

of C.S. No.1825 of 2023 by the learned Senior Civil Judge, Bhubaneswar and the impugned judgment dated 25.06.2024(Annexure-6) passed in FAO No.17 of 2024 by the learned 3rd Additional District Judge, Bhubaneswar.

2. The factual backgrounds of this Civil Miscellaneous Petition, which prompted the petitioner for filing of the same is that, the Opposite Parties being the plaintiffs filed a suit vide C.S. No.1825 of 2023 in the court of learned Senior Civil Judge, Bhubaneswar against the petitioner arraying him as defendant praying for declaring the RSD Nos.1113100169/19 and 11131906637/19 as null and void and to injunct the defendant permanently restraining him from coming upon the suit land and to direct the defendant to demolish the illegal constructions raised on the suit schedule properties and to recover the possession of the suit schedule properties from the defendant.

3. In that suit vide C.S. No.1825 of 2023, the plaintiffs being the petitioners filed an Interlocutory Application vide I.A. No.01 of 2023 under Order-39, Rule-1 and 2 read with Section 151 of the C.P.C., 1908 against the defendant arraying him as Opposite Party praying for restraining him (Opposite Party/defendant) temporarily from changing the nature and character of the suit schedule properties and to restrain him(Opposite Party) from making any construction on the suit land till

the final disposal of the suit stating that, they(plaintiffs) purchased the suit properties in the year 1995-96 from its original owners, but, the Opposite Party purchased the suit properties subsequently in the year 2019 from the legal heirs of the original owners knowing about the earlier sale made in favour of the petitioners/plaintiffs, only in order to grab the suit properties with his ill intention, for which, they(plaintiffs) filed the I.A. No.01 of 2023 against the Opposite Party/defendant.

The Opposite Party/defendant challenged the same by filing objection taking his stands that, the suit properties along with other properties were partitioned between the recorded tenants on dated 07.11.1995 through a written partition, in which, the daughter of Nityananda Samal was allotted A.0.919 decimals. Chandradwaja son of Khetrabasi was allotted A.0.919 decimals. Sarat Mangaraj was allotted A.1.838 decimals. Iswar Mangaraj son of Kunja Bewa wife of Madan Samal was allotted A.1.838 decimals and rest A.1.838 decimals was allotted in favour of Maheswar Mangaraj.

On the basis of the said partition, respective parties got possession of their respective allotted lands. Successor of Maheswar Mangaraj, namely, Ipsita Mangaraj daughter of Janardan Mangaraj filed a suit for partition vide C.S. No.2565 of 2016 for allotment of her share from the share of Maheswar Mangaraj impleading all the successors of Maheswar

Mangaraj as defendant. The said suit was disposed of on the basis of the compromise and as per such compromise, Hal Plot No.308 A.0.388 decimals under Hal Khata No.164 had fallen in her share.

The said Ipsita Mangaraj sold her said A.0.388 decimals to the Opposite Party and the Opposite Parties had also obtained power of attorney from the successors of Chanchala Samal. The Opposite Party has also purchased Hal Plot Nos.289, 302, 309 and 310 under Hal Khata No.164 from the successors in interest of Sarat Chandra Mangaraj, namely, Jayanta, Malayabanta, Sanata etc. and the Opposite Party amalgamated the same with his other properties, in which, he(Opposite Party) is making construction after obtaining necessary permission from BDA, ORERA by investing a lot of money and construction works thereof have already been progressed substantially. The Opposite Party has also received part consideration amount from intending purchasers to sell duplexes. The petitioners/plaintiffs has no interest in the suit properties, but, they(petitioners) being plaintiffs have filed the suit and I.A. only in order to extract money from him(Opposite Party). Therefore, the Interlocutory Application filed by the petitioners is liable to be dismissed.

4. After hearing from both the sides, the learned trial court passed final order in I.A. No.01 of 2023 on dated 06.01.2024 and allowed that

I.A. No.01 of 2023 filed by the petitioners(plaintiffs) and directed the parties to maintain status quo over the suit schedule land as on today till the disposal of the suit assigning the reasons that,

"as the preservation of the suit land paramount, therefore, taking into account the nature of suit, status of the parties thereto, it would be proper for both the rival parties to maintain status quo over the suit schedule land for the preservation of the same."

5. To which, the Opposite Party(defendant) challenged preferring an appeal under Order-43, Rule-1(r) of the C.P.C. vide FAO No.17 of 2024 being the appellant against the petitioners arraying them as respondents.

6. After hearing from both the sides, the learned appellate court dismissed that FAO No.17 of 2024 of the Opposite Party/appellant/defendant on contest on dated 25.06.2024 assigning the reasons that,

"since the flow of title of the suit land is to be decided at the time of trial and preservation of the suit land is the paramount consideration, for which, both the parties to maintain the status quo over the suit land until further orders. Therefore, the learned lower court has not committed any illegality or irregularity in passing the order of status quo and directed the learned trial court to dispose of the suit vide C.S.

No.1825 of 2023 within a period of four months from the date of receiving the order."

7 On being aggrieved with the above impugned orders passed on dated 06.01.2024 in I.A. No.01 of 2023 vide Annexure-4 by the learned Senior Civil Judge, Bhubaneswar as well as the impugned order dated 25.06.2024(Annexure-6) passed in FAO No.17 of 2024 under Order-43, Rule-1(r) of the C.P.C. by the learned 3rd Additional District Judge, Bhubaneswar, the Opposite Party in I.A. No.01 of 2023 challenged the same by filing this Civil Miscellaneous Petition under Article 227 of the Constitution of India, 1950 praying for quashing the above impugned order and judgment vide Annexures-4 and 6 respectively.

8. I have already heard from the learned senior counsel for the petitioner/defendant and the learned counsel for the Opposite Parties/Plaintiffs.

9. Learned senior counsel for the petitioner relied upon the following decisions:-

(i) In a case between ***Graftek Pvt Ltd and others vrs. Shri Lord Lingaraj Mahaprabhu*** : reported in ***AIR 1999 Orissa-149***.

(ii) In a case between ***Achutananda Mishra and others vrs. Pramila Mishra and others*** : reported in ***AIR 1999 (II) OLR-633***.

(iii) In a case between ***Smt. Pratima Nanda vrs. M/s. Ecos Eye Hospital*** decided on 05.05.2015 in ***FAO No.325 of 2014***.

(iv) In a case between ***Manoj Kumar Nayak and another vrs. Guna Mohanty and others*** decided on 25.04.2013 in ***W.P.(C) No.24781 of 2012***.

On the contrary, learned counsel for the Opposite Parties relied upon the following decision:-

In a case between ***Julien Educational Trust vrs. Sourendra Kumar Roy and others*** : reported in ***(2010) 1 SCC 379***.

10. The learned trial court as well as learned appellate court in the impugned orders and judgment under Annexures-4 and 6 passed in I.A. No.01 of 2023 and FAO No.17 of 2024 respectively directed both the parties to maintain status quo over the suit schedule land, as on today till the disposal of the suit without recording, *what status is to be maintained and without giving any finding of possession.*

In an order for status quo, without specific finding, as to what was the state of things relating to the status is to be maintained, such order of status quo is itself ambiguous and confusing in nature. Such type of order of status quo cannot be sustainable under law.

On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:-

(i) In a case between ***Boya Kistamma vrs. Boya Suri*** : reported in ***2025(4) CCC-315(A.P.)*** that,

When court intends to pass order of status quo concerning possession, court must record a finding as to who is in possession of property.

(ii) In a case between ***Bharat Coking Coal Ltd. vrs. State of Bihar*** and others: reported in ***1987 Suppl. SCC-394*** that,

The expression status quo is undoubtedly a term of ambiguity and at times gives rise to doubt and difficulty. According to the ordinary legal connotation, the term "status quo" implies the existing state of things at any given point of time.(Para-5)

(iii) In a case between ***Kishore Kumar Khatiar and another vrs. Praveen Kumar Singh :*** reported in ***AIR 2006(SC)-1474(D.B.)*** that,

An order of status quo cannot be passed on the asking, without recording, what status was to be maintained.

It is of no use to pass an order of status quo without indicating the status of the property, i.e., what is to be preserved.(Para-46)

(iv) In a case between ***Harihar Behera @ Narahari Behera vrs. Ashok Kumar Das and another :*** reported in ***2014 Suppl.-I OLR-435*** that,

An order passed by the appellate court to maintain status quo in respect of the suit premises without indicating what the status quo was is not proper.(Para-9)

11. Here in this matter at hand, when the learned trial court as per the impugned order vide Annexure-4 passed in I.A. No.01 of 2023 directed the parties including the petitioner to maintain status quo over the suit properties till the disposal of the suit and when, the learned appellate

court confirmed the same in FAO No.17 of 2024 without recording what status is to be maintained and without indicating the status of the properties, which is to be preserved and when, such type of status quo order itself is ambiguous in nature and such order will create troublesome to the parties not being beneficial to either party, rather the same will create multiplicity of litigations jeopardizing interest of the parties, then at this juncture, the impugned order, i.e., the direction to the parties including the petitioner/defendant to maintain status quo over the suit properties as per Annexure-4 in I.A. No.01 of 2023 and the confirmation to that part of order as per Annexure-6 by the learned appellate court in FAO No.17 of 2024 cannot be sustainable under law.

12. For which, that part of order passed in Annexures-4 and 6 by the learned trial court and appellate court is interferable through this Civil Miscellaneous Petition filed by the petitioner/defendant, but, the other part of the impugned order passed in FAO No.17 of 2024 vide Annexure-6 directing the learned trial court to dispose of the suit vide C.S. No.1825 of 2023 within four months from the date of receipt of that order is not interferable, because, the same is in the interest of achieving speedy trial as well as for providing speedy justice to the parties.

13. Therefore, there is justification under law for making interference with the impugned order vide Anenxure-4 passed by the learned trial

court in I.A. No.01 of 2023 in full and also for making interference with the confirmation of the same by the learned appellate court in FAO No.17 of 2024 under Annexure-6.

14. In result, the Civil Miscellaneous Petition filed by the petitioner is allowed in part.

The impugned order, i.e., order of status quo in respect of the suit properties under Annexure-4 passed in I.A. No.01 of 2023 by the learned trial court and the confirmation of said part by the learned appellate court in FAO No.17 of 2024 are set aside,

whereas, the other part of the order passed in FAO No.17 of 2024 by the learned appellate court directing the learned trial court to dispose of the suit vide C.S. No.1825 of 2023 within a period of four months from the date of receiving that order is confirmed.

As such, the learned trial court is directed to dispose of the suit vide C.S. No.1825 of 2023 pending in its court within a period of four months either from the date of communication of this judgment or from the date of production of the certified copy of this judgment by any of the parties.

15. Registry is directed to communicate a copy of this judgment to the learned Senior Civil Judge, Bhubaneswar immediately.

16. As such, this Civil Miscellaneous Petition filed by the petitioner(defendant) is disposed of finally.

(A.C. Behera)
Judge

Orissa High Court, Cuttack
The 10th of April, 2026/ Jagabandhu, P.A.

Signature Not Verified
Digitally Signed
Signed by: JAGABANDHU BEHERA
Designation: Personal Assistant
Reason: Authentication
Location: OHC, CUTTACK
Date: 15-Apr-2026 20:07:06