IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1262 of 2026
CNR No. ODHC010556862026

Paramahansa Nath Dev, Cuttack ..... ***Petitioner***

Represented by Adv. - Dwarika Prasad Mohanty

-versus-

Dhani Singh@ Premananda Singh & Ors. ..... ***Opposite Parties***

Represented by Adv. -

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
27.10.2026

Order No.

01. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel for the Petitioner. Perused the CMP application as well as the prayer made therein.

3. By filing the present CMP application under Article 227 of the Constitution of India, the plaintiff in C.S No.655 of 2023 pending in the court of learned 4th Additional Civil Judge (Sr. Division), Cuttack has approached this Court thereby challenging the impugned order dated 23.06.2026 at Annexure-6. On perusal of the impugned order, it appears that the learned trial court has allowed the prayer of the defendant No.1 under Order 26 Rule 9 of the CPC for appointment of a Survey Knowing Commissioner.

4. Learned counsel for the Petitioner, at the outset, contended that the Petitioner, as plaintiff, filed a suit with a prayer for grant of a decree of eviction along with other consequential reliefs. He further contended that although the nature of the suit and relief sought for does not call for appointment of the Survey Knowing Commissioner as there is no dispute with regard to the identity of the property, the learned trial court on the application filed by the defendant No.1 has gone ahead and appointed a Survey Knowing Commissioner. He further contended that in the event the Survey Knowing Commissioner is allowed to conduct a survey and submit his report, the same would only cause delay and that such report of the Survey Knowing Commissioner is not going to help the learned trial court for a just adjudication of the dispute pending before the learned trial court. On such ground, learned counsel for the Petitioner alleged that the learned trial court has erroneously exercised its jurisdiction under Order 26 Rule 9 of the CPC.

5. Upon careful consideration of the submissions made by the learned counsel for the petitioner and upon close scrutiny of the impugned order dated 23.06.2026, this Court is of the view that, in a suit of this nature, there was no necessity to appoint a Survey-Knowing Commissioner and that the impugned order does not disclose any sufficient justification for such appointment. However, upon perusal of the order dated 23.06.2026, it appears that the learned trial court has exercised its discretion under Order 26 Rule 9 of the CPC in allowing the prayer of defendant No.1 for the appointment of a Survey-Knowing Commissioner. Such appointment has been made in the exercise of the discretion vested in the learned trial court. It is well-settled in law that, in the absence of any prejudice, this Court would not ordinarily interfere

with an order passed by the learned trial court. Upon careful consideration of the entire factual scenario, this Court is of the view that the appointment of a Survey-Knowing Commissioner would not cause any prejudice or injustice to the plaintiffs. On this ground, this Court is not inclined to interfere with the impugned order dated 23.06.2026. However, to allay the apprehension of the plaintiff-petitioner that such appointment might delay the disposal of the suit, this Court directs the learned trial court to make every endeavour to ensure that the entire process is completed as expeditiously as possible, preferably within eight weeks from the date of communication of a copy of this order. The parties are directed to cooperate with the learned trial court. It is needless to mention that the appointment of the Survey-Knowing Commissioner shall be confined to the properties described in the schedule to the plaint.

6. With the aforesaid observations/ directions, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified
Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Oct-2026 18:49:27