IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1259 of 2026
CNR No. ODHC010556962026

Madhusudan Das **.....** ***Petitioner***

Represented by Adv. -
Debasish Samal

-versus-

Sudhir Kumar Das **.....** ***Opposite Party***

Represented by Adv. -

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

ORDER

Order No. **27.10.2026**

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

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

3. The Defendant No. 1 in C.S. No.1724/2459 of 2024, pending before the learned Civil Judge (Senior Division), Balasore, has approached this Court by filing the present application under Article 227 of the Constitution of India, challenging the order dated 06.05.2026.

4. Learned counsel for Defendant No. 1-Petitioner, at the outset, submitted that the Opposite Party, as plaintiff, instituted the aforesaid suit, in which summons were issued to the defendants. He further contended that Defendant No.1, being the *Karta* of the family, received the summons on behalf of all the defendants, including Defendant Nos.2 to 4. However, Defendant Nos.2 to 4 were not duly

served with summons in the suit, as they had not received the same. He further submitted that Defendant Nos.2 to 4 are residing separately and are not members of the joint family residing with Defendant No.1. On the aforesaid grounds, learned counsel for the Petitioner contended that Defendant Nos.2 to 4, who have been set ex-parte in the suit, ought to be afforded another opportunity to contest the suit by setting aside the ex-parte order passed against them.

5. On perusal of the record as well as the impugned order, it appears that summons were duly served on Defendant No.1-Petitioner. Although a plea has been taken that summons were not duly served on Defendant Nos.2 to 4, they have not approached this Court by filing the present CMP application.

6. In such view of the matter, the present CMP application is disposed of by granting liberty to Defendant Nos.2 to 4 to raise the issue of non-service of summons before the learned trial court by filing an appropriate application seeking setting aside of the ex-parte order passed against them. In the event any such application is filed, the learned trial court shall consider the same in accordance with law.

7. With the aforesaid observations and directions, the CMP stands disposed of.

(A.K. Mohapatra)

Judge

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