IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1496 of 2025
CNR No. ODHC010661342025

Giribala Sahu and another **.....** ***Petitioners***

Represented by Adv. - Amit Prasad Bose

-versus-

Padmanava Panda and others **.....** ***Opposite Parties***

Represented by Adv. - M/S Manoj Kumar Panda, Smruti Ranjan Nayak, Shyam Sundar Chhualsingh, Prakash Kumar Singh

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

ORDER

12.11.2026

Order No.

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

2. Heard learned counsel for the Petitioner as well as the learned counsel appearing for the Opposite Parties. 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, 1950, the Judgment Debtors in Execution Case No.04 of 2016 pending in the Court of learned Civil Judge, Junior Division, Jaleswar has approached this Court, thereby challenging the impugned order dated 07.08.2025 passed by the said Court, whereby, the application of the Judgment Debtor Nos.7 and 8 dated 24.06.2025 with a prayer for stay of the execution proceeding has

been rejected.

4. The learned counsel appearing for the Petitioners, at the outset, contended that the Opposite Party-Decree Holders initially filed a suit for declaration and other ancillary reliefs. He further contended that the suit was decreed ex-parte. The learned counsel for the Petitioners further contended that after the suit was decreed ex-parte, the decree holders have initiated the present execution case. However, he further submitted that after receiving the summons in the execution case, the judgment debtors came to know about the disposal of the suit by an ex-parte judgment and decree. Accordingly, the Judgment Debtors/Defendants moved an application under Order 9 rule 13 of the C.P.C. setting aside the ex-parte judgment and decree, such application has been registered as C.M.A. No.115 of 2024 in C.S. No.999 of 2013 pending before the learned Civil Judge, Junior Division, Jalesar.

5. Since, the aforesaid application under Order 9 rule 13 of the C.P.C. is pending, the Judgment Debtors moved an application before the learned Executing Court with a prayer for stay of further proceedings in execution case. Such application having been rejected by the learned Executing Court and the Petitioners have approached this Court by filing the present CMP Application.

6. The learned counsel appearing for the Opposite Party/Decree holders contended that although, there is a decree in favour of the Opposite Party/Decree holders, however, the Opposite Party/Decree holders is unable to enjoy the fruits of the said decree. He further submitted that in view of the judgment of the Hon'ble Supreme Court in ***Periyammal (Dead) Thr. Lrs & Others Vrs. V. Rajamani & Another. Etc., reported in 2025(1) OLR (SC) 833***, the decree should have been executed within a period of six months. In such

view of the matter, the learned counsel for the Opposite Party/Decree holder submitted before this Court the learned Executing Court has not committed any illegality in rejecting the application of the Judgment Debtors by virtue of the order 07.08.2025 at Annexure-1 to the CMP application.

7. Having regard to the submissions made by the learned counsel appearing for the both sides and upon careful examination of the factual background of the case as well as taking note of the fact that the CMA No.115 of 2024 has been filed under Order 9 Rule 13 of the C.P.C., 1908 for setting aside the ex-parte judgment and decree and the same is pending since 2024, this Court with the consent of learned counsel appearing for both the sides, dispose of the present CMP application directing the learned Civil Judge, Junior Division, Jaleswar to dispose of the CMA No.115 of 2024 within a period of eight weeks from today. The learned counsels appearing for the Judgment Debtors as well as Decree Holders are directed to cooperate with the learned Trial Court for early disposal of the CMA No.115 of 2024. It is further directed that that till disposal of the CMA No.115 of 2024, the learned executing Court shall not be proceeded with the execution case.

8. With the aforesaid observation and directions, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Binayak

Signature Not Verified
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Signed by: BINAYAK SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 13-Nov-2026 12:14:22