IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.34907 of 2026
CNR No. ODHC010713202026

Chitra Rekha Swain .... ***Petitioner***

Mr. B.K. Mohanty, Advocate

-versus-

State of Odisha & ors. .... ***Opposite Parties***

Mr. P.K. Ray, AGA
(For O.P. Nos. 1 to 3)

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER
28.10.2026

Order No.
02. This matter is taken up through hybrid mode.

2. The present writ petition has been preferred by the Petitioner-wife with the following prayer:-

> *"It is therefore humbly prayed that this Hon'ble Court may graciously be pleased to allow this writ application and issue a direction in the nature of mandamus or any other writ/writs and directing the opp. party No. 2 and 3 to recovery the award of arrear maintenance dues of Rs. 13,20,000/- (Rupees Thirteen Lakhs Twenty Thousand) only from the opp. party No. 4 i.e. judgment debtor for the period of from 20.01.2014 to 19.07.2019 by arresting him passed by the Learned Judge Family Court, Cuttack in Civil Execution Case No. 08 of 2019 arising out of Civil Proceeding No. 41 of 2014 as would deem just and proper."*

3. Heard learned Counsel for the Petitioner so also Mr. Ray, learned Additional Government Advocate, who accepts notice on behalf of the Opposite Party Nos.1 to 3 and admits to have received copy of the brief.

4. Learned Counsel for the Petitioner, drawing attention of this Court to Letter of the learned Judge, Family Court, Cuttack dated 09.03.2026 as at Annexure-7, addressed to the Superintendent of Police, Cuttack submits, despite repeated requests made by the learned Judge, Family Court, Cuttack, neither the Superintendent of Police, Cuttack nor the IIC, Mahanga is acting to carry out the order of execution of conditional NBW issued against the present Opposite Party No.4, who is the Judgment Debtor in Civil Execution Case No.08 of 2019, pending in the Court of learned Judge, Family Court, Cuttack. Hence, being remediless, the Petitioner, who is a deserted lady, was being constrained to approach this Court.

5. Per contra, learned State Counsel, relying on the judgment of Supreme Court reported in (1980) AIR (SC) 470 ***(Jolly George Varghese and another Vrs. The Bank of Cochin)***, so also judgment of Madras High Court reported in (2017) 2 LW 298 ***(T. Dharmalingam Vrs. K.P. Bharathi)*** submits, the learned Executing Court is competent to ensure compliance of its own order for execution of conditional NBW and the prayer to direct the Inspector-In-Charge, Mahanga Police Station, Mahanga (O.P No.2) so also the Superintendent of Police (O.P. No.3) to recover arrear maintenance to the tune of Rs.13,20,000/- (Rupees Thirteen Lakhs Twenty Thousands) only from the Opposite Party No.4 (Judgment Debtor) is misconceived. He files photocopies of the said judgments in the Court, which are taken on record.

6. In view of such submission made by the learned State Counsel, this Court is not inclined to allow the prayer made in the writ petition.

7. Accordingly, the writ petition stands dismissed.

8. It is made clear that dismissal of the writ petition shall not be a bar for the Petitioner to pursue her remedy before the

learned Executing Court in the pending execution case i.e. Civil Execution Case No.08 of 2019 (arising out of C.P. No. 41 of 2014).

9. This Court is hopeful that learned Executing Court shall do well to proceed further in Civil Execution Case No.08 of 2019 in accordance with law and try to conclude the said proceeding at the earliest in view of the judgment of Supreme Court in ***Rahul S. Shah Vrs. Jinendra Kumar Gandhi & ors.***, reported in (2021) 6 SCC 418.

10. Urgent certified copy of this order be granted on proper application as per rules.

(S.K. MISHRA)
JUDGE

Banita

Signature Not Verified
Digitally Signed
Signed by: BANITA PRIYADARSHINI PALEI
Designation: SR. STENOGRAPHER
Reason: AUTHENTICATION
Location: OHC, CUTTACK
Date: 29-Oct-2026 18:07:47