IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1662 of 2026
CNR No. ODHC010713552026

Bhaba Ranjan Das ..... ***Petitioner***

Represented by Adv. –
Mr. Amitav Tripathy

-versus-

Sisir Ranjan Das and others ..... ***Opposite Parties***

Represented by Adv. –
M/s. Samvit Mohanty,
G.Das, S.Jena,
S.Satapathy, D.Lal

(For O.P. No.1-
Caveator)

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
28.10.2026

Order No.

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

2. Heard the learned counsel for the Petitioner as well as the learned counsel for the Opposite Party No.1-Cavator, who appeared on his own motion without notice being issued to the Opposite Party No.1. 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 Defendant No.1 in C.S. No.138 of 2023, pending in the court of learned Senior Civil Judge,

Nayagarh, has approached this Court thereby challenging the order dated 31.08.2026 passed in the abovenoted suit.

4. Learned counsel for the Petitioner, at the outset, contended that during pendency of the suit, the Defendant No.1-Petitioner filed an application under Order-XIII Rule-10 read with Section 30 of the C.P.C to call for the original record in OLR Case No.286/08 from the court of the Tahasildar, Nayagarh and permit the Defendant No.2 to exhibit and prove the original 'Bishodhani Patra' filed therein.

5. Learned counsel for the Petitioner further contended that the Defendant No.1-Petitioner in his written statement has taken a specific stand that there was a previous partition. In the said context, the Defendant No.1-Petitioner wanted to rely upon the 'Bishodhani Patra', which was filed in the pending OLR Case No.286/08 before the Tahasildar, Nayagarh. He further contended that although the Petitioner obtained a copy under the Right to Information Act, however, since the same was a photocopy of the original, it could not have been entertained as an evidence by the learned trial court. Accordingly, Defendant No.1-Petitioner moved an application under Order-XIII Rule-10 read with Section 30 of the C.P.C. with a prayer to call for the original record in OLR Case No.286/08 from the Court of the Tahasildar, Nayagarh. Such application having been rejected by the learned trial court, the Petitioner has approached this Court by filing the present CMP application.

6. Learned counsel for the Opposite Party No.1, on the other

hand, contended that the Petitioner could have obtained a certified copy on such OLR proceeding in the event he wanted such document to be introduced as evidence before the learned trial court. He further contended that in the process the court cannot be utilized to collect evidence in favour of any of the parties in the proceeding. On such ground, learned counsel for the Opposite Party No.1 submitted before this Court that the learned trial court has not committed any illegality in rejecting the prayer of the Petitioner. Accordingly, it was submitted that the CMP application does not call for any interference by this Court.

7. Having regard to the submissions made by the learned counsels appearing for both sides and on a careful scrutiny of the impugned rejection order dated 31.08.2026, this Court found that the prayer of the Petitioner to call for the original record of OLR Case No.286/08 from the court of the Tahasildar, Nayagarh has been rejected by the learned trial court on the ground that the certified copy of such documents should have been procured by the Defendant No.1-Petitioner in the event he wanted to rely upon such documents during evidence. Additionally, the application of the Petitioner has been rejected on the ground that the same was not supported by any affidavit. Moreover, the learned trial court also observed that the Petitioner has failed to demonstrate that the requisition of original record at that stage has a direct bearing on the issue which cannot be addressed by any other evidence. With regard to the aforesaid observation, this Court is of the view that the same was pre-mature at that stage since, the relevancy of any

document can only be examined during trial. Similarly, with regard to the records of the OLR proceeding, this Court is of the view that the Defendant No.1-Petitioner should have obtained the certified copies of such documents. Moreover, the exercise of power under Order-XIII Rule10 read with Section 30 of the C.P.C is at the discretion of the trial court.

8. In view of the aforesaid position, this Court deems it proper to dispose of the present CMP application by granting liberty to the Petitioner to obtain the certified copy of the OLR proceeding filed before the learned trial court in the event the Petitioner, if so advise. In the event such certified copies have filed, the learned trial court shall consider the same strictly in accordance with law before adducing evidence. Further, liberty is granted to the Petitioner to move an application to call for the original documents in the event any of the contents of the certified copy of the record is disputed by the Plaintiff during trial. In the event any such application is filed, the trial court shall consider the same strictly in accordance with law.

(A.K. Mohapatra)
Judge

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Reason: Authentication
Location: ORISSA HIGH COURT
Date: 30-Oct-2026 12:13:52