IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1800 of 2026
CNR No. ODHC010791582026

Bishnu Charan Behera **.....** ***Petitioner***

Represented by Adv. - Bhabani Sankar Panigrahi

-versus-

SATYABHAMA JENA and another **.....** ***Opposite Parties***

Represented by Adv. -

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
29.10.2026

Order No.

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. By filing the present application under Article 227 of the Constitution of India, the Plaintiff in C.S. No.296 of 2022 who happens to be a judgment-debtor in Execution Case No.05 of 2003 arising out of T.S. No.160 of 1998 has approached this Court thereby challenging the order dated 19.02.2026 passed by the learned Civil Judge (Senior Division), Jajpur in the abovenoted execution case.

4. Learned counsel for the Petitioner at the outset contended that the Opposite Party initially filed a suit in the year 1998, wherein the Petitioner was arrayed as a Defendant. He further contended that the earlier suit was decreed ex-parte and such ex-parte decree was not within the knowledge of the present Petitioner. When such fact of passing of an ex-parte decree came to the knowledge of the present Petitioner, the Petitioner filed in C.S. No.296 of 2022 challenging the validity of such ex-parte decree. He further contended that the Plaintiff in the previous suit in the meantime filed an execution case bearing Execution Case No.5 of 2003. During the pendency of the subsequent suit the Plaintiff moved an application with a prayer for stay of further proceeding in the execution case under Order 21 Rule 29 of the CPC. The subsequent suit was also dismissed due to non-prosecution. Although it is stated before this Court that steps have been taken for restoration of such suit.

5. By virtue of impugned order dated 19.02.2026, learned Executing Court has rejected the judgment-debtor's application under Order 21 Rule 29 of the CPC for the stay of further proceeding in the execution case on the ground that the substitution suit is no more in existence as the same has already been dismissed due to non-prosecution.

6. Upon a careful analysis of the submission made by the learned counsel for the Petitioner, further on a scrutiny of the impugned order dated 19.02.2026, this Court is of the view that the learned Executing Court has not committed any illegality in rejecting the JDRs prayer for stay of further proceeding in the

execution case. However while disposing of the present CMP application, liberty is granted to the Petitioner to move a fresh application under Order 21 Rule 29 of CPC in the event the C.S. No.296 of 2022 is restored to file. In the event, any such application is filed, the same shall be considered strictly in accordance with law and in terms of the law laid down by this Court as well as the Hon'ble Supreme Court.

7. With the aforesaid observation and direction, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Sisir

Signature Not Verified
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Signed by: SISIR KUMAR SETHI
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 30-Oct-2026 15:38:36