IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1843 of 2026
CNR No. ODHC010823832026

P. Ismile **.....** ***Petitioner***

Represented by Adv. -
Raju Kumar Satapathy

-versus-

Kotni Santosh Kumar 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 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 judgment debtor in Execution Petition No.7 of 2026 pending in the Court of learned Civil Judge (Senior Division), Berhampur which arises out of C.S. No.527 of 2023 has approached this Court thereby challenging the order dated 01.10.2026 passed by the Executing Court.

4. By virtue of the impugned order dated 01.10.2026, the learned Executing Court has rejected the prayer of the judgment debtor for stay of the execution proceeding till disposal of the CMA No.3 of

2026 filed at the instance of the defendant-petitioner under Order 9 Rule 13 of the CPC. Learned counsel for the petitioner, at this juncture, contended that initially a decree was passed *ex parte* in C.S. No.527 of 2023. He further contended that in that execution proceeding such *ex parte* decree is sought to be executed by the plaintiff-decree holders. He further contended that after coming to know about the *ex parte* decree, the defendant had filed an application under Order 9 Rule 13 of the CPC where evidence has already been laid and the same is at the argument stage. He further submitted that before disposal of the above noted application under Order 9 Rule 13 of the CPC, the learned Executing Court rejecting the prayer of the petitioner for stay of the further proceeding in the execution case has decided to proceed further in the execution case.

5. Taking note of the submission made by the learned counsel for the petitioner and on a careful examination of the background facts and on a close scrutiny of the impugned order dated 01.10.2026, this Court feels it proper to dispose of the present CMP application by directing the learned Trial Court to expedite the hearing in CMA No.3 of 2026, if the same is at the argument stage and to make every endeavour to dispose of such CMA petition within a period of six weeks from today. Till disposal of CMA No.3 of 2026 or for a period of eight weeks, whichever is earlier, the execution proceeding bearing Execution Petition No.7 of 2026 shall be adjourned on an application being filed

by the petitioner before the learned Executing Court. This Court further makes it clear that after the disposal of the above noted CMA, it is open to the learned Executing Court to proceed with the execution proceeding in accordance with law.

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

7. Since this order has been passed without issuing notice to the opposite parties, liberty is granted to the opposite parties to seek appropriate directions or modification of this order, in the event it is found that the petitioner has suppressed any material fact or information, or has misled this Court on any material aspect.

(ADITYA KUMAR MOHAPATRA)
Judge

Utkalika

Signature Not Verified
Digitally Signed
Signed by: UTKALIKA NAYAK
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 31-Oct-2026 12:16:09