IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1847 of 2026
CNR No. ODHC010834032026

Chakra Meher and Ors. **.....** ***Petitioners***
Represented by Adv. -
Kedar Kumar Dash

-versus-

Kishor Sahu and others **.....** ***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. 2. Heard learned counsel for the petitioners. Perused the CMP application as well as the prayer made therein.

3. The defendant in C.S. No.25 of 2021 pending in the Court learned Civil Judge (Senior Division), Padampur has approached this Court challenging the impugned order dated 11.10.2023 passed on an application filed by the defendants under Order 7 Rule 11 of the CPC.

4. Learned counsel for the petitioners, at the outset, contended that the opposite parties-plaintiffs initially filed a suit for declaration of title and other ancillary reliefs over the suit schedule land. The defendants-petitioners after receiving summons appeared in the suit

and filed an application under Order 7 Rule 11 of the CPC with a prayer for rejection of the plaint. Such application was filed basically on two grounds:- (i) lack of cause of action to file the suit, and (ii) the suit is barred by law of limitation.

5. Learned counsel for the petitioners in support of his stand with regard to rejection of the plaint, as has been pleaded in his application under Order 7 Rule 11 of the CPC, referred to the copy of the plaint at Annexure-1 as well as the application under Order 7 Rule 11 of the CPC at Annexure-2, along with the impugned order dated 11.10.2023 passed by the learned Trial Court. By referring to the aforesaid document, learned counsel for the petitioners contended that the suit is grossly barred by limitation. Moreover, the plaintiffs have failed to make out a prima facie case to maintain the suit against the defendants, as there is no cause of action on the part of the plaintiffs to proceed against the defendants. On such ground, learned counsel for the petitioners by elaborating his argument submitted before this Court that the learned Trial Court has committed an illegality by rejecting his application under Order 7 Rule 11 of the CPC. In such view of the matter, learned counsel for the petitioners submitted that the impugned order dated 11.10.2023 is unsustainable under law and, accordingly, the same should be set aside.

6. Perused the impugned order dated 11.10.2023 at Annexure-4 to the present application.

7. On perusal of the impugned order at Annexure-4, this Court observed that the defendant Nos.1 to 4 filed an application under Order 7 Rule 11 of the CPC on 12.07.2022, immediately after their appearance in the suit. In their application under Order 7 Rule 11 of the CPC, the defendants raised an objection with regard to the maintainability of the suit on the ground that the pleadings in the suit does not disclose any cause of action to bring the suit against the defendants and, that the suit has been filed beyond the period of limitation as prescribed under the Limitation Act. The learned Trial Court, in the impugned order, has vividly discussed the factual background of the case and, by referring to the pleadings from both sides and to the law laid down by this Court as well as Hon'ble Supreme Court, has come to a conclusion that the defendants have failed to make out a case for rejection of a plaint under Order 7 Rule 11 of the CPC. On a close scrutiny of the impugned rejection order dated 11.10.2023, at Annexure-4, this Court finds no grounds to interfere with such order. Hence, this Court is not inclined to interfere with the impugned order dated 11.10.2023, at Annexure-4.

8. However, while disposing of the present application, this Court further found in the impugned order that the learned Trial Court has treated notice on defendant No.5, 6 & 7 to be sufficient and that they

have been set *ex parte*. To provide a fair opportunity to the parties, this Court grants liberty to such defendants to move an application, in the event they are so advised, for setting aside of the *ex parte* order. In the event, any such application is filed, the same shall be considered strictly in accordance with law. Furthermore, this Court, while disposing of the present CMP application, grants liberty to the petitioners to raise the grounds taken in his application under Order 7 Rule 11 of the CPC at the time of the final hearing of the suit. Learned Trial Court, after taking evidence, shall consider such grounds on its own merit while delivering the final judgment in the suit.

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

(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