IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1928 of 2026
CNR No. ODHC010843022026

Chakradhar Sahoo @ Chakra ..... ***Petitioner***

Represented by Adv. - Bibhuti Bhusan Swain

-versus-

Gadadhar Sahoo & Ors. ..... ***Opposite Parties***

Represented by Adv. -

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
09.11.2026

Order No.

01. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel for the Petitioner. Perused the CMP as well as the prayer made therein.

3. The Petitioner, who happens to be the defendant, in CS No.273 of 2017 pending in the court of learned Civil Judge (Senior Division), Talcher, Angul, has approached this Court challenging the impugned order dated 01.10.2026 at Annexure-3 to the CMP. By virtue of the impugned order dated 01.10.2026, the learned trial court has rejected the defendant's application under Order 18 Rule 17 CPC to recall cross-examination of PW3 on the grounds stated therein.

4. Learned counsel for the Petitioner, at the outset, contended that initially the Opposite Party-plaintiff filed the suit for declaration and for delivery of possession along with other

consequential reliefs. In the suit, while the plaintiffs' witnesses were being examined, particularly, PW No.3, it is alleged that a copy of the Examination-in-Chief of the PW3 was served on the defendant's counsel. He further submitted that the defendant stated before the Court that although it has been informed by the plaintiffs that the copy of Examination-in-Chief was attempted to be served on the defendant's counsel, however, he refused to accept the same. He further submitted that the matter was posted to 01.10.2026. The learned trial court believing the statement of the counsel for the plaintiffs that the defendant refused to accept the copy of the Examination-in-Chief of PW3, proceeded further and rejected the defendant's prayer under Order 18 Rule 17 CPC.

5. On perusal of the record, it appears that a copy of the application under Order 18 Rule 17 at Annexure-2 reveals that a ground was taken by the defendant to the effect that the copy of the Examination-in-Chief of PW3 was in fact not served on the defendant's counsel. In the aforesaid context, this Court also examined the copy of the Examination-in-Chief of the PW3 which has been filed as Annexure-1 to the CMP. On perusal of the Xerox copy of the Examination-in-Chief of the PW3, it appears that there is an endorsement by the counsel for the plaintiffs that although a copy of such Examination-in-Chief was offered to the counsel for the defendant, however, he refused to accept the same. Such endorsement is dated 26.08.2026. In reply to the above, learned counsel for the defendant-Petitioner submitted before this Court that the defendant was never offered a copy of Examination-in-Chief of the PW3. He further submitted that only on the basis of such endorsement, the Court has accepted the plaintiffs' stand and proceeded further to reject the application of the defendant under

Order 18 Rule 17 CPC. He further submitted that neither any affidavit was filed before the learned trial court, nor was any witness was examined to establish the aforesaid fact. On such ground, learned counsel for the defendant-Petitioner submitted that the course adopted by the learned trial court is absolutely illegal and erroneous.

6. On a careful analysis of the submissions made by the counsel for the Petitioner, further on a close scrutiny of the documents annexed to the CMP and, particularly, on a close scrutiny of the impugned order dated 01.10.2026, it was found that while rejecting the petition under Order 18 Rule 17 of the defendant the learned trial court has not **referred** to any evidence with regard to the refusal by the defendant to receive the Examination-in-Chief of the PW3. It is only basing upon the statement of the plaintiffs that an order has been passed on 01.10.2026 thereby rejecting the defendant's application under Order 18 Rule 17 CPC to cross-examine PW3. In the aforesaid context, this Court would like to record that observance of the principles of natural justice and providing a fair opportunity to both sides is the standard norm to be followed in every trial. In the present case, it appears that although there is an endorsement by the plaintiffs' counsel on the Examination-in-Chief, however, no supporting or corroborative evidence was either produced or taken into consideration while passing the order dated 01.10.2026. Moreover, this Court is of the view that in the worst case scenario if it was found that the defendant refused to accept the Examination-in-Chief, the Court could have imposed cost instead of denying the defendant an opportunity to cross-examine PW3.

7. In the aforesaid factual as well as legal backdrop, this Court is of the view that the impugned order dated 01.10.2026, at Annexure-3, is unsustainable in law. Accordingly, the same is hereby set aside. Further, the matter is remanded back to the learned trial Court to reconsider the application of the defendant under Order 18 Rule 17 of the CPC afresh, after providing opportunity of hearing to both sides.

8. With the aforesaid observations/ directions, the CMP stands disposed of.

.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified
Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 10-Nov-2026 17:26:46