IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1981 of 2026
CNR No. ODHC010874412026

G. Basavaiah ***.....*** ***Petitioner***

Represented by Adv. –
Mr. Sabita Ranjan
Pattnaik

-versus-

Nirupama Sahu and others ***.....*** ***Opposite Party***

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
11.11.2026

Order No.

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

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

3. The Petitioner, who happens to be a lis pendence purchaser and a stranger to the suit, has approached this Court by filing the present CMP application under Article 227 of the Constitution of India thereby challenging the impugned order dated 16.10.2026 passed in CMA No.223 of 2026, which arises out of Execution Case No.4 of 2024, pending in the court of learned Civil Judge (Senior Division), 1st Court, Cuttack.

4. Learned counsel for the Petitioner, at the outset, contended that initially the Opposite Party No.1, as a Plaintiff, filed a suit for specific performance of contract wherein the present Petitioner was not arrayed as a Defendant. She further submitted that the suit filed by the Plaintiff was decreed. Thereafter, the Plaintiff has initiated an

execution proceeding 14 years after the decree was passed by the learned trial court. She further submitted that in the meantime the Petitioner has purchased the suit scheduled land from the original recorded owner. She further submitted that in execution of the decree by the executing court, the Petitioner is at the risk of being dispossessed. Accordingly, the Petitioner filed an application under Section 47 of the C.P.C. raising question with regard to the executability of the decree. Such application having been rejected by the learned trial court by virtue of the impugned order dated 16.10.2026, at Annexure-4, the Petitioner has approached this Court by filing the present CMP application.

5. On perusal of the impugned order, it appears that the learned trial court dismissed the application by holding that such application under Section 47 is not maintainable.

6. Considering such submission made by the learned counsel appearing for the Petitioner and on a careful examination of the background facts, further taking note of the impugned order dated 16.10.2026, this Court found that the Petitioner is a lis pendence purchaser and a stranger of the suit. Therefore, the application under Section 47 of the CPC is not maintainable at the instance of the stranger. So far Section 47 of the CPC is concerned, the same is applicable to the parties to the suit. So far the present Petitioner is concerned, the remedies available to him lie elsewhere under Order-21 of CPC.

7. In such view of the matter, the present CMP is disposed of by granting liberty to the Petitioner to move an application before the learned trial court under Order-21 Rule-97 of the CPC or any other provision as would be advised.

8. To facilitate the Petitioner, this Court grants liberty to the Petitioner to move an application before the learned Executing Court seeking adjournment of the proceeding. In the event any such application is filed, the executing court shall do well to adjourn the proceeding for a period of two weeks.

9. However, this Court has not made any observation on the merits of the matter and in the event any application is filed by the Plaintiff under Order-21 of the C.P.C., the same shall be considered strictly on its own merit.

(Aditya Kumar Mohapatra)
Judge

Debasis

Signature Not Verified
Digitally Signed
Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 13-Nov-2026 14:46:45