A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.2118 of 2025
CNR No. ODHC010955362025

(In the matter of an application under Article 227 of the Constitution of India, 1950).

M/s. Kapilas Cement Manufacturing Works (KCMW), Cuttack .... ***Petitioner (s)***

-versus-

My Home Industries Pvt. Ltd., Hyderabad .... ***Opposite Party (s)***

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner (s) : *Mr. Ashok Parija, Senior Advocate along with associates*
Mr. Sarada Prasanna Sarangi, Advocate
Mr. Navneet Dadhichi, Advocate.

For Opposite Party (s) : *Mr. S. P. Mishra, Senior Advocate along with associates*
Mr. Soumya Mishra, Advocate
Mr. Samir Kumar Mishra, Senior Advocate along with associates

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-25.08.2026
DATE OF JUDGMENT:-30.10.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioner has instituted the present Civil Miscellaneous Petition under Article 227 of the Constitution of India, assailing the judgment dated 16.12.2025 passed by the learned Additional District Judge, Chandikhole in F.A.O. No. 62 of 2025, whereby the order dated

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

10.11.2025 passed by the learned Civil Judge (Junior Division), Chandikhole in I.A. No. 44 of 2025 arising out of C.S. No. 98 of 2025, rejecting the Petitioner's application for temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, was affirmed.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

(i) The Petitioner, M/s. Kapilas Cement Manufacturing Works (KCMW), a unit of M/s. Dalmia Cement (Bharat) Limited, formerly known as OCL India Limited, is engaged in the manufacture of cement and has established its cement manufacturing plant at Biswali, District Cuttack.

(ii) On 09.06.2006, IPICOL sanctioned the proposal for establishment of the cement plant along with associated industrial activities, including rail and road infrastructure. Pursuant thereto, a Lease Deed dated 12.06.2008 was executed with the Odisha Industrial Infrastructure Development Corporation (IDCO) in respect of lands situated in Mouza Byree and Mouza Amiyajharial, under Darpan Tahasil, in the district of Jajpur, for a period of 90 years. According to the Petitioner, it has been in possession of the leasehold lands since 2007–2008 and has established its cement manufacturing plant along with associated industrial infrastructure, including staff quarters, internal roads and private railway sidings.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

(iii) It is the case of the Petitioner that Plot No. 4228/4824, measuring Ac.60.00, and Plot No. 4368 under Khata No. 1298, measuring Ac.30.00, aggregating to Ac.90.00 in Mouza Byree, form part of its leasehold land, over which it has constructed roads and railway tracks for its own use, connecting its private railway siding with the main railway line for transportation of raw materials and dispatch of finished cement. The Petitioner further claims that the internal kaccha road intersecting its private railway line at the Jhatiapada level crossing is situated within its leasehold premises and that the said crossing is a manned level crossing maintained at its own expense. It is further asserted that a portion of the said road forms part of the Wildlife Conservation Plan titled Jhatia Passage for Elephants, relied on by the Petitioner in connection with the environmental conditions governing its industrial establishment, and that the use of the said passage is subject to the conditions prescribed under the Plan.

(iv) The Opposite Party, M/s. My Home Industries Private Limited, was subsequently allotted land measuring Ac.52.630 by IDCO for establishment of a cement grinding unit at Village Byree, under Darpan Tahasil, in the district of Jajpur. According to the Opposite Party, the said allotment was made out of land earlier surrendered by the Petitioner to IDCO. A Lease Agreement dated 26.09.2022 was executed between IDCO and the Opposite Party. The dispute between the parties concerns the use of the existing road and railway level crossing for movement of heavy vehicles,

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

machinery and construction materials to the industrial premises of the Opposite Party.

(v) On 23.09.2025, the Opposite Party submitted a grievance petition before the Collector and District Magistrate, Jajpur, seeking permission to use the alleged public road, contending that the Petitioner had obstructed the movement of its vehicles through the railway level crossing. The Petitioner, on being called upon to show cause, submitted its reply on 17.10.2025, contending, inter alia, that the road in dispute was an internal *kaccha* road running within its leasehold premises and was never a public road meant for public use. It was further contended that the railway crossing was categorised as a 'D' level crossing meant for pedestrians and cattle and that frequent and unregulated movement of heavy vehicles, including trucks, cranes and other machinery, would cause damage to its railway infrastructure. The Petitioner also contended that the issue concerning internal roads within the leasehold area was already sub judice between the Petitioner and IDCO.

(vi) The Collector and District Magistrate, Jajpur, by order dated 25.10.2025, allowed the grievance petition of the Opposite Party, observing that the *kaccha* road had been in existence for a long period and was being used by the villagers of Jhatiapada. The Collector further observed that the road passing through the railway crossing was the only available access to the land allotted to the Opposite Party. Accordingly, for the larger interest of

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

public demand and industrialisation, the Collector directed that the railway crossing would also be used by IDCO and IDCO-allotted industries and that the Petitioner should not obstruct the passage of vehicles over the said road. The Opposite Party was directed to ensure that the railway line was not damaged and to take necessary precautions, including consultation with the Railway authorities in the event of transit of heavy machinery. The Superintendent of Police, Jajpur and the Tahasildar, Darpan were directed to ensure implementation of the said directions.

(vii) Being aggrieved by the aforesaid order dated 25.10.2025, the Petitioner instituted C.S. No. 98 of 2025 before the learned Civil Judge (Junior Division), Chandikhole, seeking, inter alia, a decree of declaration of its right, title and interest over the suit schedule property, declaration that the order dated 25.10.2025 passed by the Collector, Jajpur was illegal and liable to be set aside, and permanent injunction restraining the Opposite Party from entering upon the suit schedule property and interfering with its peaceful possession and enjoyment. Along with the suit, the Petitioner filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, registered as I.A. No. 44 of 2025, seeking an order of temporary injunction restraining the Opposite Party, its employees, agents and contractors from entering upon and using the suit schedule property till disposal of the suit.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

(viii) The Opposite Party appeared through caveat and filed its objection to the application for temporary injunction along with supporting documents. On hearing the parties, the learned Civil Judge (Junior Division), Chandikhole, by order dated 10.11.2025, dismissed I.A. No. 44 of 2025, observing that although the Petitioner had raised an arguable case, the same was a matter to be adjudicated during trial upon full evidence and not at the interlocutory stage. The learned Court further held that the balance of convenience was in favour of the Opposite Party and that the Petitioner had failed to establish irreparable injury warranting grant of temporary injunction.

(ix) Being aggrieved by the order dated 10.11.2025, the Petitioner preferred F.A.O. No. 62 of 2025 before the learned Additional District Judge, Chandikhole, challenging the refusal of temporary injunction. On consideration of the materials on record and the submissions advanced by the parties, the learned Appellate Court, by judgment dated 16.12.2025, dismissed the appeal and affirmed the order passed by the learned Trial Court. The learned Appellate Court found no sufficient ground to interfere with the discretionary order refusing temporary injunction.

(x) Being aggrieved by the aforesaid judgment dated 16.12.2025 and the order dated 10.11.2025, the Petitioner has approached this Court by way of the present Civil Miscellaneous Petition under Article 227 of the Constitution of India.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. The learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

(i) It was submitted that the impugned order dated 10.11.2025 passed by the learned Civil Judge (Junior Division), Chandikhole and the judgment dated 16.12.2025 passed by the learned Additional District Judge, Chandikhole were illegal, arbitrary and unsustainable in law, having been passed without proper consideration of the pleadings, documents and materials placed on record by the Petitioner. It was contended that both the Courts below had failed to appreciate the nature of the Petitioner's leasehold rights, the character of the disputed road and railway crossing, and the consequences arising from their use by the Opposite Party for industrial transportation. The learned Appellate Court, despite recognising that refusal of temporary injunction by ignoring relevant documentary evidence could constitute an arbitrary or perverse exercise of discretion, failed to examine the documents relied on by the Petitioner and affirmed the order of the learned Trial Court.

(ii) It was further submitted that the Petitioner was the lawful lessee of the suit schedule property pursuant to the Lease Deed dated 12.06.2008 executed with IDCO and had developed its industrial premises, including internal roads and private railway infrastructure, at its own expense. The disputed railway level crossing was situated within the land allotted to the Petitioner

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

and formed part of the railway siding constructed for the operation of its cement manufacturing unit. It was contended that the Collector, Jajpur, by order dated 25.10.2025, had permitted the Opposite Party to enter and use the Petitioner's leasehold premises and privately constructed railway crossing without its consent. According to the Petitioner, the Collector was not vested with any statutory authority to create or confer a right of access over its private land and infrastructure in favour of another industrial undertaking. Such an administrative direction was asserted to be an unlawful interference with the Petitioner's rights of possession and enjoyment arising from the Lease Deed.

(iii) It was submitted that the disputed pathway was never a public vehicular road. Reliance was placed on the Detailed Project Report submitted to the Railway authorities in 2006 and the in-principle approval accorded by East Coast Railway on 16.10.2006, wherein the existence of a two-metre-wide *kaccha* pathway used by villagers, without movement of vehicular traffic, had been specifically recorded. It was contended that the Jhatiapada railway crossing was categorised as a 'D' level crossing intended for pedestrians and cattle and was maintained by the Petitioner at its own expense. The existence of a pathway traditionally used by villagers could not, according to the Petitioner, be construed as conferring on the Opposite Party a right to ply heavy vehicles, construction machinery and industrial materials through the Petitioner's premises. It was specifically clarified that the

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

Petitioner did not seek to obstruct the passage of villagers or the movement of cattle and that the relief sought was confined to restraining the Opposite Party from using the railway crossing and internal premises for industrial and commercial transportation.

(iv) It was further contended that the disputed passage was also subject to restrictions arising from the Wildlife Conservation Plan titled *Jhatia Passage for Elephants*, implemented pursuant to the environmental conditions governing the Petitioner's industrial establishment. The said Plan contemplated designated passages across the railway siding for movement of elephants and other wild animals and prescribed regulated use of the area, including restrictions during nighttime. It was submitted that unrestricted movement of heavy industrial vehicles through the said passage would be inconsistent with the conditions of the Wildlife Conservation Plan and would interfere with the movement of wildlife. It was asserted that the Collector, Jajpur, had failed to consider these material circumstances while permitting industrial vehicular movement through the disputed crossing.

(v) It was further submitted that the Petitioner's railway siding had been constructed and operated pursuant to agreements and approvals obtained from the Railway authorities and that the Petitioner was bound to comply with the conditions imposed thereunder. It was contended that frequent passage of heavy vehicles, cranes and machinery over the railway crossing would

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

expose the railway tracks to damage, interfere with the transportation of raw materials and finished cement, and potentially disrupt the operation of the manufacturing unit. It was further asserted that the Petitioner could incur contractual and statutory liability, including consequences under Section 151 of the Railways Act, 1989, in the event of damage or obstruction affecting the railway infrastructure. It was submitted that the Opposite Party had not obtained the requisite consultation or permission from the Railway authorities for movement of heavy machinery, notwithstanding the express condition imposed by the Collector in the order dated 25.10.2025. Both the Courts below were stated to have failed to examine the relevant railway agreements and the consequences of non-compliance with their conditions.

(vi) It was submitted that the Collector, Jajpur, had proceeded on an erroneous assumption that the disputed railway crossing constituted the only available access to the industrial premises of the Opposite Party. According to the Petitioner, an alternative route through Village Mania was available for transportation of machinery, construction materials and other requirements to the Opposite Party's premises. Reliance was placed on the site map and photographs filed by way of additional affidavit to demonstrate the existence and use of such alternative access. It was further contended that, following the interim order dated 06.01.2026 passed in the present proceeding, the Opposite Party

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

had continued its construction activities for several months by using the alternative route. It was submitted that these circumstances contradicted the assertion that the Opposite Party's land was entirely landlocked or that access through the Petitioner's railway crossing was indispensable. It was asserted that the Opposite Party sought to use the Petitioner's premises merely because the disputed route was shorter and more convenient.

(vii) It was further submitted that the Opposite Party had obtained allotment of Ac.52.630 of land from IDCO in September 2022 on an 'as is where is' basis, whereas the Petitioner had developed its industrial establishment and associated railway infrastructure much earlier. It was contended that any difficulty arising from the location of the Opposite Party's allotted land, including its proximity to Revenue Forest land, could not create an entitlement to enter upon the Petitioner's leasehold premises. According to the Petitioner, the Opposite Party ought to have pursued the statutory procedure for obtaining access through the adjoining forest land, wherever permissible, instead of seeking an administrative direction authorising passage over the Petitioner's land. It was submitted that the Collector could not have created a third-party commercial interest over the Petitioner's leasehold property merely to facilitate the industrial activities of the Opposite Party.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

(viii) It was submitted that the learned Trial Court had failed to properly apply the settled requirements governing temporary injunction under Order XXXIX Rules 1 and 2 CPC. Although the learned Trial Court had acknowledged that the Petitioner raised an arguable case, it declined injunction principally upon the finding that the disputed road provided the only available access to the Opposite Party's industrial premises. It was contended that the said finding was based substantially on the order dated 25.10.2025 passed by the Collector, without independently examining the Petitioner's lease documents, Railway DPR, relevant agreements, site map and other materials. It was further contended that the learned Trial Court had erroneously proceeded on the footing that any damage to the railway tracks could be adequately compensated in monetary terms, without appreciating the possibility of disruption of the Petitioner's manufacturing operations and the contractual and regulatory consequences arising from damage to the railway infrastructure.

(ix) It was further contended that the balance of convenience was in favour of the Petitioner, which had been in possession of the leasehold property and had operated its industrial establishment for several years. It was submitted that permitting heavy industrial traffic over the railway siding and internal road would interfere with the Petitioner's peaceful enjoyment of its premises and expose its railway infrastructure to damage, potentially affecting the transportation of clinker and other raw materials

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

and thereby disrupting the manufacturing and supply of cement. Such injury, according to the Petitioner, could not be adequately compensated by damages. It was asserted that the Courts below had attached undue significance to the commercial inconvenience alleged by the Opposite Party while failing to consider the nature and extent of the injury apprehended by the Petitioner. The Petitioner maintained that it had satisfied the requirements of prima facie case, balance of convenience and irreparable injury necessary for grant of temporary injunction.

(x) Reliance was also placed on the interim order dated 06.01.2026 passed by this Court in the present Civil Miscellaneous Petition, whereby the Opposite Party was restrained from using the railway level crossing situated on the Petitioner's land for industrial purposes till 03.02.2026. It was submitted that this Court had taken note of the location of the crossing within the Petitioner's allotted land, the construction of the railway line for the Petitioner's own use and the existing right of communication of local tribal inhabitants through the crossing. According to the Petitioner, the interim arrangement recognised the distinction between the traditional passage of villagers and the use of the crossing by the Opposite Party for industrial purposes. It was further contended that the continuation of the Opposite Party's construction activities through an alternative route following the said order demonstrated that restraint upon industrial use of the

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

disputed crossing would not deprive the Opposite Party of access to its premises.

(xi) In response to the allegation that the Petitioner had suppressed material facts concerning C.S. No. 139 of 2024 and the proceedings arising therefrom, the learned counsel submitted that the pendency of the said litigation had been specifically disclosed in paragraph 8(iii) of the plaint in C.S. No. 98 of 2025. It was contended that the earlier suit concerned the decision of IDCO to widen and upgrade the road passing through the Petitioner's leasehold land, whereas the present suit arose from the order dated 25.10.2025 passed by the Collector, Jajpur, permitting the Opposite Party to use the disputed railway crossing. It was submitted that the two proceedings arose from distinct causes of action and that the allegation of suppression of material facts or failure to approach the Court with clean hands was therefore denied.

(xii) It was submitted that the Courts below had failed to exercise their discretion judicially and had overlooked material documents and relevant considerations bearing on the Petitioner's rights and the requirements for grant of temporary injunction. It was accordingly submitted that the judgment dated 16.12.2025 passed in F.A.O. No. 62 of 2025 and the order dated 10.11.2025 passed in I.A. No. 44 of 2025 were liable to be set aside and that the Petitioner was entitled to an order restraining the Opposite Party

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

from using the disputed road and railway level crossing for industrial transportation pending adjudication of the suit.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. *Per contra*, the learned counsel for the Opposite Party made the following submissions:

(i) It was submitted that the present Civil Miscellaneous Petition was devoid of merit and did not warrant interference under Article 227 of the Constitution of India. The learned Civil Judge (Junior Division), Chandikhole, by order dated 10.11.2025, had rejected the Petitioner's application for temporary injunction after considering the pleadings, documents and materials on record, and the said order had been affirmed by the learned Additional District Judge, Chandikhole, in F.A.O. No. 62 of 2025 by judgment dated 16.12.2025. It was contended that both the Courts below had concurrently found that the essential requirements for grant of temporary injunction were not satisfied. Reliance was placed on the decisions of the Supreme Court in ***Nandi Infrastructure Corridor Enterprises Ltd. and Another v. B. Gurappa Naidu and Others***[1] and ***Garment Craft v. Prakash Chand Goel***[2], to contend that supervisory jurisdiction under Article 227 was limited and corrective in nature and could not be exercised as an appellate jurisdiction for reappreciation of evidence or substitution of factual findings. It was submitted that the Courts below had

[1] 2026 SCC Online SC 745.
[2] (2022) 4 SCC 181.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

exercised jurisdiction duly vested in them and that no jurisdictional error, gross abuse of jurisdiction, perversity or grave dereliction of duty had been demonstrated to justify interference.

(ii) It was further submitted that the land measuring Ac.52.630 allotted to the Opposite Party by IDCO for establishment of a cement grinding unit at Village Byree formed part of the land earlier surrendered by the Petitioner to IDCO. Pursuant to the allotment, a Lease Agreement dated 26.09.2022 had been executed between IDCO and the Opposite Party for a period of 75 years. According to the Opposite Party, the allotted land was landlocked on all sides and the only available access from NH-16 was through an existing *kaccha* public road which had been used by villagers of the locality for several decades, even prior to the grant of lease in favour of the Petitioner in 2008. The said road was described as an 'Estate Road' in the Lease Agreement executed between IDCO and the Opposite Party. Reliance was placed upon Clause 19 of the said Agreement, requiring the lessee to construct and maintain an access road leading from the Estate Road to its allotted land. It was contended that the Opposite Party had accordingly constructed an access road connecting its industrial premises to the existing village road.

(iii) It was submitted that the private railway siding constructed by the Petitioner from Byree Railway Station to its cement plant intersected the existing village road and that a manned level

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

crossing had been constructed at the intersection for regulating vehicular movement. It was contended that the railway crossing did not extinguish the pre-existing public character of the road or the customary rights of the villagers and other users. The road was stated to provide access not only to the Opposite Party's industrial premises but also to the tribal inhabitants of Jhatiapada and other surrounding areas. According to the Opposite Party, the Petitioner had taken advantage of the railway crossing by lowering the gates and obstructing the movement of vehicles belonging to the Opposite Party, thereby impeding the construction and development of its industrial project. Such obstruction was alleged to have arisen from business rivalry between the two industrial undertakings.

(iv) It was submitted that the Opposite Party had accordingly approached the Collector and District Magistrate, Jajpur, by grievance petition dated 23.09.2025, seeking permission for movement of its vehicles through the existing road and railway crossing. The Collector, after field verification and hearing the parties, passed a speaking order dated 25.10.2025 permitting use of the said crossing by IDCO and IDCO-allotted industries in the larger public and industrial interest. It was contended that the Collector had taken a balanced approach by protecting the interests of the local inhabitants, the industrial establishments and the railway infrastructure. The Opposite Party was specifically directed to ensure that no damage was caused to the

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

railway line, to take necessary precautions and to consult the Railway authorities in the event of transit of heavy machinery, including undertaking strengthening of the railway line wherever required. It was asserted that the said order had been passed after considering the ground realities and that the Petitioner could not selectively obstruct the existing road merely on account of its railway siding intersecting the same.

(v) It was further contended that the order dated 25.10.2025 passed by the Collector continued to remain in force and had not been declared illegal or inoperative by any competent Court. Although the Petitioner had challenged the said order in C.S. No. 98 of 2025 and had impleaded the Collector as Defendant No. 2 in the suit, the Collector had not been impleaded in I.A. No. 44 of 2025. It was submitted that the relief of temporary injunction sought against the Opposite Party would, in effect, keep the Collector's order in abeyance without any express prayer for staying its operation. It was contended that the question concerning the Collector's jurisdiction and the legality of the order dated 25.10.2025 required adjudication in the suit upon evidence and could not be conclusively determined at the interlocutory stage. It was further submitted that permitting such adjudication at the stage of temporary injunction would amount to conducting a mini-trial on issues reserved for final determination.

(vi) It was further submitted that the Petitioner was not entitled to the equitable relief of temporary injunction, having failed to

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

approach the Court with clean hands. It was alleged that the Petitioner had suppressed material particulars concerning C.S. No. 139 of 2024 instituted against IDCO before the learned Civil Judge (Senior Division), Chandikhole, wherein the decision of IDCO to widen and upgrade the existing village road for providing access to NH-16 had been challenged. The application for temporary injunction in the said suit, registered as I.A. No. 91 of 2024, had been dismissed by order dated 03.04.2025, and the said order had been affirmed in F.A.O. No. 53 of 2025 by judgment dated 27.10.2025. It was contended that the limited reference to the pendency of those proceedings in paragraph 8(iii) of the plaint in C.S. No. 98 of 2025 did not constitute full and proper disclosure of the earlier litigation, its subject matter or the orders passed therein. Reliance was placed on ***M/s. Gujarat Bottling Co. Ltd. and Others v. Coca Cola Company and Others***[3] to contend that grant of temporary injunction was an equitable and discretionary relief and that the conduct of the party seeking such relief was a relevant consideration.

(vii) It was further alleged that the Petitioner had attempted to misrepresent the effect of the order dated 11.11.2025 passed in W.P.(C) No. 28490 of 2025, whereby status quo regarding possession of certain portions of land had been directed to be maintained. According to the Opposite Party, the said proceeding concerned land measuring Ac.7.70 sought to be resumed by

[3] (1995) 5 SCC 545.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

IDCO for development of a railway corridor and was distinct from the dispute concerning use of the existing village road and railway level crossing in C.S. No. 98 of 2025. It was contended that the Petitioner had sought to rely upon the said order as though it related to the self-same subject matter, thereby misrepresenting material circumstances before the Court. Such conduct was alleged to constitute suppression of material facts and forum shopping.

(viii) It was submitted that the Petitioner had failed to establish a prima facie case warranting temporary injunction. It was contended that the Petitioner had sought a declaration of ownership and right, title and interest over leasehold properties measuring approximately Ac.90.00, whose valuation exceeded Rs.4,50,00,000/-, while valuing the suit at Rs.5,000/-. According to the Opposite Party, the suit had been arbitrarily and unreasonably undervalued, raising an objection concerning the pecuniary jurisdiction of the learned Trial Court. It was further submitted that an application under Order VII Rule 11 CPC had been filed for rejection of the plaint on that ground. It was also contended that the suit schedule property had not been sufficiently identified by a sketch map delineating the particular portion allegedly entered upon by the Opposite Party, thereby attracting the requirements of Order VII Rule 3 CPC. These circumstances were relied upon to dispute the existence of a prima facie case in favour of the Petitioner.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

(ix) It was further submitted that the apprehended damage to the Petitioner's railway siding did not constitute irreparable injury within the meaning of Order XXXIX Rules 1 and 2 CPC. Reliance was placed on ***Dalpat Kumar v. Prahlad Singh***[4] to contend that existence of a prima facie case alone was insufficient for grant of temporary injunction and that the applicant was additionally required to establish balance of convenience and irreparable injury. It was submitted that the Petitioner's apprehension of damage from movement of heavy vehicles was speculative and unsupported by sufficient material demonstrating the likelihood of such damage. It was contended that any actual damage to the railway tracks or other infrastructure could be established through evidence during trial and, if proved, adequately compensated by damages. The Opposite Party further asserted that the Railway authorities had not objected to the use of the crossing and that the Petitioner could not rely upon apprehended railway safety concerns to justify complete obstruction of an existing village road.

(x) It was submitted that the balance of convenience was overwhelmingly in favour of the Opposite Party. According to the Opposite Party, the existing village road connecting its allotted land to NH-16 was the only available approach to its industrial premises and was also used by the inhabitants of the nearby tribal hamlets. Grant of injunction would obstruct the

[4] (1992) 1 SCC 719.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

transportation of construction materials and machinery, disrupt the establishment of the proposed cement grinding unit and adversely affect the movement of villagers and other industrial users. It was further contended that the Opposite Party was under contractual obligations to undertake construction and allied activities within the stipulated period under its Lease Agreement with IDCO, and obstruction of the access road would expose it to serious consequences under the said Agreement. The comparative hardship likely to be suffered by the Opposite Party upon grant of injunction was therefore stated to be substantially greater than any apprehended injury to the Petitioner upon its refusal.

(xi) The learned counsel disputed the Petitioner's contention that an alternative route was available to the Opposite Party through Village Mania. It was submitted that the Collector, Jajpur, had already recorded a finding in the order dated 25.10.2025 that no other road was available connecting the Opposite Party's land to the National Highway. The site map and photographs relied upon by the Petitioner were disputed as documents prepared for the purposes of the present litigation. It was further contended that the Petitioner was attempting to introduce additional documents and factual assertions through affidavits filed before this Court which did not form part of the records before the learned Trial Court or the learned Appellate Court. According to the Opposite Party, such an attempt to reopen disputed questions

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

of fact and supplement the earlier record was impermissible in proceedings under Article 227 of the Constitution. It was submitted that the existence or otherwise of an alternative route was a disputed factual matter requiring evidence and could not be determined at the supervisory stage.

(xii) The learned counsel further relied upon the terms of the Lease Deed dated 12.06.2008 executed between IDCO and the Petitioner. Particular reliance was placed upon Clause 20, whereby existing customary rights of the Government and public roads and paths through or bounding the leased land were expressly reserved and were not to be affected by the lease. Reference was also made to Clause 36, which contemplated facilitation of small and medium industries and promotion of ancillary and downstream industrial activities, and Clause 50, requiring compliance with the provisions of the Orissa Industrial Infrastructure Development Corporation Act, 1980 and the Rules and Regulations framed thereunder. It was contended that the Petitioner could not claim exclusive control over an existing public road in derogation of the rights expressly reserved under the Lease Deed.

(xiii) It was further submitted that Sections 14 and 15 of the Orissa Industrial Infrastructure Development Corporation Act, 1980 conferred broad statutory powers upon IDCO to promote rapid and orderly industrial development, provide common facilities and amenities, and undertake works necessary for industrial

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

infrastructure. According to the Opposite Party, development of a common industrial corridor and provision of access to industrial units were within the statutory functions of IDCO, and the Petitioner's obstruction of the existing road frustrated the larger public and industrial interest underlying the allotment and development of industrial land in the area.

(xiv) The learned counsel further referred to the subsequent order dated 19.12.2025 passed by the Collector, Jajpur, directing implementation of the earlier order dated 25.10.2025 and requiring the Petitioner not to obstruct movement of vehicles carrying construction materials to the Opposite Party's project site. It was submitted that the Tahasildar, Darpan, in the presence of the concerned revenue and police authorities, had taken steps for implementation of the Collector's directions on 23.12.2025. According to the Opposite Party, these developments demonstrated the continued obstruction caused by the Petitioner despite the directions issued by the competent administrative authority. The Opposite Party reiterated that the dispute had arisen from commercial rivalry and that the Petitioner's attempt to prevent access through the existing village road was intended to impede the construction and functioning of a competing industrial establishment.

(xv) It was submitted that the Petitioner had failed to establish any ground warranting interference with the concurrent findings of the Courts below. It was contended that the Petitioner had not

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

satisfied the requirements of prima facie case, balance of convenience and irreparable injury, and that the refusal of temporary injunction represented a proper exercise of judicial discretion. The impugned orders were stated to disclose no jurisdictional error or perversity justifying interference under Article 227 of the Constitution of India. Accordingly, dismissal of the present Civil Miscellaneous Petition was sought.

IV. FINDINGS OF THE LEARNED ADDITIONAL DISTRICT JUDGE, CHANDIKHOLE:

5. The learned Additional District Judge, Chandikhole, while dismissing F.A.O. No. 62 of 2025 by judgment dated 16.12.2025, recorded the following findings:

(i) The learned Appellate Court observed that grant of temporary injunction under Order XXXIX Rules 1 and 2 CPC was governed by three essential requirements, namely, existence of a prima facie case, balance of convenience in favour of the applicant and likelihood of irreparable injury in the event of refusal of injunction. It further observed that temporary injunction being an equitable and discretionary relief, the conduct of the party seeking such relief was also a relevant consideration.

(ii) The learned Appellate Court held that an appeal against an order granting or refusing temporary injunction was an appeal on principle and that the Appellate Court ought not to interfere with the exercise of discretion by the Court of first instance merely to substitute its own discretion. Interference was warranted where

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

such discretion had been exercised arbitrarily, capriciously or perversely, or where the Court had ignored the settled principles of law governing grant or refusal of interlocutory injunction. It further observed that refusal of temporary injunction by ignoring relevant documentary evidence could constitute an arbitrary or perverse exercise of discretion.

(iii) Upon consideration of the materials, supporting documents and submissions advanced by the parties, the learned Appellate Court found that the Petitioner had failed to satisfy all three essential requirements for grant of temporary injunction. It held that the Petitioner had not established a case warranting exercise of the discretionary jurisdiction in its favour.

(iv) The learned Appellate Court further observed that, apart from the three essential requirements, the conduct of the applicant was required to be considered while granting equitable relief. Taking into account the submissions of the parties, the supporting documents and the order passed by this Court in W.P.(C) No. 28490 of 2025, the learned Appellate Court concluded that the Petitioner had not approached the Court with clean hands.

(v) The learned Appellate Court accordingly held that the learned Trial Court had considered the matter in its proper perspective and that the exercise of discretion in refusing temporary injunction did not suffer from any inherent infirmity warranting appellate interference. Consequently, F.A.O. No. 62 of 2025 was dismissed on contest without costs, and the order dated

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

10.11.2025 passed by the learned Civil Judge (Junior Division), Chandikhole in I.A. No. 44 of 2025 was affirmed.

V. COURT'S REASONING AND ANALYSIS:

6. Heard learned counsel for the parties and perused the materials available on record.

7. The present Civil Miscellaneous Petition requires determination of the limited question whether the learned Additional District Judge, Chandikhole, erred in affirming the order dated 10.11.2025 passed by the learned Civil Judge (Junior Division), Chandikhole, rejecting the Petitioner's application for temporary injunction, and whether the concurrent orders are vitiated by any infirmity warranting interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

8. Before proceeding to examine the impugned orders, it is necessary to bear in mind the limited nature of the jurisdiction invoked. It is well settled that in exercise of its supervisory jurisdiction, the High Court cannot sit in appeal over the correctness of the orders passed by the courts and tribunals over which it exercises the power of superintendence. The scope of such jurisdiction was elucidated by the Supreme Court in ***Shalini Shyam Shetty and Another v. Rajendra Shankar Patil.***[5] The relevant observations are replicated hereinunder:

> *"(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power,*

[5] (2010) 8 SCC 329.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh [AIR 1954 SC 215] and the principles in Waryam Singh [AIR 1954 SC 215] have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh [AIR 1954 SC 215] , followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised."

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

9. Similarly, in ***M/s. Garment Craft v. Prakash Chand Goel***[6] , the Supreme Court reiterated the principles governing the exercise of supervisory jurisdiction under Article 227 of the Constitution of India and observed as follows:

> *"15. …The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice."*

10. The aforesaid principles have been recently reiterated by the Supreme Court in ***Nandi Infrastructure Corridor Enterprises Ltd. and Another v. B. Gurappa Naidu and Others***[7] wherein it was observed that the High Court, in exercise of its supervisory jurisdiction under Article 227, cannot act as a Court of first appeal to reappreciate evidence or substitute its own conclusions for those of the subordinate Court. The Supreme Court further observed that such jurisdiction is corrective in

---

[6] (2022) 1 SCC 181.
[7] 2026 SCC Online SC 745.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

nature and is to be exercised sparingly, particularly where there is an unwarranted assumption of jurisdiction, gross abuse of jurisdiction or unjustifiable refusal to exercise jurisdiction vested in a subordinate Court.

11. In the present case, the orders under challenge arise from the rejection of an application for temporary injunction under Order XXXIX Rules 1 and 2 CPC. It is, therefore, necessary to advert to the settled principles governing the grant of such relief. Rule 1 of Order XXXIX empowers the Court to grant temporary injunction where the property in dispute is in danger of being wasted, damaged or alienated, or where the Defendant threatens to dispossess the Plaintiff or otherwise cause injury to the Plaintiff in relation to the property in dispute. Rule 2 of Order XXXIX further provides for grant of temporary injunction to restrain the commission or continuance of a breach of contract or other injury of a like nature.

12. The grant of temporary injunction is an equitable and discretionary relief governed by three essential requirements, namely, the existence of a prima facie case, balance of convenience in favour of the applicant and the likelihood of irreparable injury in the event of refusal of such relief.

13. In ***Dalpat Kumar v. Prahlad Singh***[8], the Supreme Court explained that the existence of a prima facie case, though necessary, does not alone entitle a party to temporary injunction. The Court must further consider whether refusal of the relief would occasion an injury incapable of

[8] (1992) 1 SCC 719.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

adequate compensation and whether the balance of convenience favours the party seeking protection.

14. Since the order refusing temporary injunction in the present case was subsequently challenged in appeal, the principles governing appellate interference with the exercise of discretion by the Court of first instance are also relevant.

15. In ***Wander Ltd. v. Antox India (P) Ltd.***[9], the Supreme Court observed that an appeal against the exercise of discretion is an appeal on principle. An Appellate Court would not ordinarily substitute its own discretion for that of the Trial Court merely because it might have arrived at a different conclusion. Interference is warranted where the discretion has been exercised arbitrarily, capriciously or perversely, or where the Trial Court has ignored the settled principles of law governing the grant or refusal of interlocutory injunctions.

16. The present dispute concerning the nature and extent of the use of the pathway passing through the Petitioner's railway level crossing must be examined in the light of the aforesaid principles. It is noted that the Petitioner is challenging the movement of heavy vehicles, construction machinery and industrial materials belonging to the Opposite Party through the said crossing. It does not, however, dispute the pathway's use by the local villagers for pedestrian movement and passage of cattle. In such circumstances, at the interlocutory stage, the question for determination is whether the Petitioner has established sufficient

[9] 1990 Supp SCC 727.

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

grounds for restraining such industrial use pending adjudication of the respective rights of the parties.

17. The Petitioner has relied on the Detailed Project Report submitted to the Railway authorities in 2006, wherein the existence of a two-metre-wide *kaccha* pathway used by villagers, without movement of vehicular traffic, was recorded. Conversely, the Opposite Party maintains that the pathway constitutes an existing public road connecting the adjoining industrial area and local habitations to NH-16. Although the existence of the pathway is not disputed, the parties differ as to its character and the extent of the right of passage available thereover.

18. The prior use of the pathway by villagers does not necessarily establish a right to use it for movement of heavy industrial vehicles. However, the Petitioner's claim of exclusive possession over the leasehold premises must also be considered in the light of any existing right of passage recognised under the relevant lease or otherwise under law. These competing claims require determination with reference to the lease documents, railway records and other evidence to be adduced in the suit.

19. The Petitioner's primary apprehension concerns the safety of its private railway siding and the possible consequences of permitting heavy industrial vehicles to cross the railway tracks. It has been contended that the crossing is categorised as a 'D' level crossing, intended for pedestrians and cattle, and that movement of heavy vehicles and construction machinery may damage the railway infrastructure or interfere with the operation of its cement manufacturing unit. The

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

Petitioner has also relied upon its agreements with the Railway authorities and the obligations arising thereunder. These contentions are relevant to the question of irreparable injury. Such apprehended consequences must be assessed with reference to the materials available at the interlocutory stage and the safeguards governing the proposed use of the crossing.

20. In this regard, the order dated 25.10.2025 passed by the Collector and District Magistrate, Jajpur is relevant. While permitting the use of the disputed crossing by IDCO and its allottees for industrial purposes, the Collector directed the Opposite Party to ensure that no damage was caused to the railway line of the Petitioner and to take all necessary precautions. The order further contemplated consultation with the Railway authorities in the event of movement of heavy machinery and strengthening of the railway line wherever required. The permission contemplated under the said order is thus accompanied by conditions concerning protection of the railway infrastructure. The apprehensions raised by the Petitioner must be considered in the light of these safeguards, which have a direct bearing upon the manner in which the crossing may be used.

21. The Petitioner has contended that the Opposite Party has not undertaken the consultation contemplated in the Collector's order and that movement of heavy machinery without the requisite precautions may expose it to consequences under the railway agreements and applicable statutory provisions. The question whether the conditions imposed by the Collector have been complied with requires

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

examination of the relevant facts and records. The disputed assertions concerning compliance cannot be conclusively determined in the present proceeding. Any failure to observe the prescribed conditions would remain subject to examination by the competent authorities in accordance with law. At this stage, the apprehensions raised by the Petitioner do not establish that the refusal of temporary injunction by the Courts below was founded upon an arbitrary or perverse exercise of discretion.

22. Turning to the order dated 10.11.2025, the learned Trial Court considered the Petitioner's claim of exclusive rights over the leasehold premises and the objections raised against the use of the crossing. It took note of the order passed by the Collector and the competing contentions concerning the character and use of the pathway. Upon examining the requirement of prima facie case, the learned Trial Court found that the Petitioner had raised an arguable case requiring adjudication upon evidence at the trial. It thereafter considered the remaining requirements of balance of convenience and irreparable injury and concluded that they had not been established in favour of the Petitioner.

23. It is further noted that the finding concerning balance of convenience was based upon the comparative hardship likely to arise from granting or refusing the relief sought. The learned Trial Court placed reliance on the finding recorded by the Collector that the disputed crossing constituted the existing approach to the industrial premises of the Opposite Party. It also considered the use of the pathway by the local

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

villagers and the consequences which an obstruction could have upon the industrial development proposed in the adjoining area. Taking these circumstances into account, the learned Trial Court concluded that the hardship likely to be caused by restraining access would outweigh the injury apprehended by the Petitioner.

24. The Petitioner has challenged the finding concerning the absence of alternative access and has asserted that another route through Village Mania is available. The Opposite Party, on the other hand, maintains that the disputed crossing constitutes the only practicable approach to its allotted land. The learned Trial Court proceeded upon the Collector's determination concerning access while assessing the comparative hardship likely to arise from granting or refusing injunction. The Petitioner has also relied upon maps, photographs and additional materials to support its contention concerning alternative access. However, the existence of competing assertions and the subsequent production of additional materials do not, by themselves, establish that the conclusion reached by the learned Trial Court was unsupported by the material before it. The existence and suitability of the alleged alternative route remain matters requiring examination upon evidence. In these circumstances, the finding recorded at the interlocutory stage cannot be characterised as manifestly perverse merely because an alternative route has been asserted.

25. The distinction between the customary passage of villagers and the proposed movement of heavy industrial vehicles has also been considered. The Petitioner has consistently maintained that it does not

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

seek to obstruct the movement of local inhabitants. Nevertheless, the relief sought in the injunction application was directed against industrial use of the crossing by the Opposite Party. Such use was specifically contemplated in the Collector's order dated 25.10.2025, subject to conditions concerning railway safety. The learned Trial Court was therefore required to assess the comparative consequences of restraining that use. Its conclusion concerning balance of convenience was reached upon consideration of the asserted requirement of access to the Opposite Party's industrial premises. It is therefore the considered view of this Court that the limited nature of the objection raised by the Petitioner does not establish any jurisdictional infirmity in that assessment.

26. The respective rights asserted under the lease agreements also must be considered. The Petitioner claims exclusive possession and enjoyment of the suit schedule property pursuant to the Lease Deed dated 12.06.2008 executed with IDCO. In this regard, the Opposite Party has relied upon Clause 20 of the said Lease Deed concerning the reservation of existing rights and public roads or pathways, besides the statutory functions of IDCO relating to industrial development and infrastructure. The effect of these provisions upon the disputed crossing depends upon the terms of the relevant documents, the nature of the pathway and the extent of the rights claimed by the parties. These matters also cannot be finally determined while considering the present challenge to the refusal of temporary injunction. The learned Trial Court having found that the dispute raised an arguable case, its

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

decision to refuse injunction upon consideration of balance of convenience and irreparable injury cannot be treated as a final rejection of the Petitioner's leasehold rights.

27. It is further noted that the Petitioner has relied upon the Wildlife Conservation Plan titled Jhatia Passage for Elephants, contending that the disputed passage falls within an area identified for movement of elephants and other wildlife and that the proposed industrial traffic would be inconsistent with the restrictions contemplated thereunder. The applicability of the Plan to the disputed portion of the pathway and the nature of the conditions governing its use require examination of the relevant documents. The said contention, including the question of compliance with any applicable restrictions, remains open for consideration in accordance with law. The material placed before this Court does not, however, establish that the concurrent orders refusing temporary injunction warrant interference in exercise of supervisory jurisdiction on this ground.

28. The Petitioner has also challenged the authority of the Collector to permit industrial vehicles to pass through its leasehold premises. The Opposite Party in this regard has relied upon the order dated 25.10.2025 as an existing direction permitting access through the crossing. The legality and effect of the said order form part of the underlying controversy. At the stage of deciding temporary injunction, the Courts below were entitled to consider its existence and the findings recorded therein for the limited purpose of assessing the relief sought. Such consideration does not amount to a final determination of the

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

Collector's authority or the respective rights of the parties. Those questions shall remain open for adjudication in accordance with law.

29. As regards the question of irreparable injury, the learned Trial Court considered the apprehensions concerning damage to the railway tracks and interference with the Petitioner's operations. It concluded that the injury apprehended by the Petitioner did not outweigh the consequences likely to follow from preventing access to the Opposite Party's industrial premises. The Petitioner has challenged the observation that damage to the railway infrastructure could be compensated in monetary terms.

30. The consequences of damage to an operational railway siding may undoubtedly extend beyond the immediate expense of repairs. However, the finding of the learned Trial Court must be read in the context of its assessment of the competing injuries and the safeguards contemplated under the Collector's order. The Court did not proceed upon the absence of any apprehended injury, but found that the requirements for grant of temporary injunction had not been satisfied upon consideration of the circumstances placed before it. Such an assessment falls within the discretion entrusted to the Court under Order XXXIX Rules 1 and 2 CPC.

31. The learned Appellate Court, while deciding F.A.O. No. 62 of 2025, referred to the principles governing grant of temporary injunction and the limitations upon appellate interference with discretionary orders. Upon consideration of the rival submissions and the materials placed before it, the learned Appellate Court concluded that the Petitioner had

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

failed to satisfy the requirements for grant of temporary injunction and that the discretion exercised by the learned Trial Court did not warrant interference.

32. The Petitioner has contended that the learned Appellate Court failed to undertake a proper examination of the relevant documents. In examining this contention, regard must be had to the reasons recorded in the impugned orders and the materials considered by the Courts below. The learned Trial Court considered the requirements governing temporary injunction and assessed the competing claims concerning access, comparative hardship and apprehended injury. The learned Appellate Court declined to interfere with that exercise of discretion. In proceedings under Article 227 of the Constitution of India, this Court cannot substitute its own assessment of the disputed materials merely because another view may be possible. Interference would be warranted only where the conclusions reached are shown to be vitiated by jurisdictional error, manifest perversity or disregard of the settled principles governing the exercise of discretion.

33. On consideration of the rival submissions and the findings recorded by the Courts below, this Court finds that no such infirmity has been established. The dispute involves competing claims concerning the nature of the pathway, the extent of rights arising under the lease agreements, the availability of alternative access and the conditions governing movement of industrial vehicles across the railway siding. These questions require adjudication upon evidence in the suit. The learned Trial Court considered the requirements for temporary

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

injunction and found that the balance of convenience and the question of irreparable injury did not favour the Petitioner. The learned Appellate Court affirmed that conclusion upon consideration of the grounds raised before it. These findings are supported by material available on record and cannot be characterised as manifestly perverse or contrary to the principles governing interlocutory relief.

34. This Court has also taken note of the interim order dated 06.01.2026 passed in the present proceeding, whereby the Opposite Party was restrained from using the railway level crossing for industrial purposes until 03.02.2026, while preserving the passage of the local villagers. It is noted that the said order was passed at an interlocutory stage and does not constitute a final determination of the rights of the parties. The observations made therein were confined to the consideration of interim relief and do not dispense with the necessity of examining the impugned orders in accordance with the principles governing supervisory jurisdiction under Article 227 of the Constitution of India.

35. Before parting with the matter, it is necessary to clarify that refusal of temporary injunction does not confer upon the Opposite Party an unrestricted right to use the disputed railway crossing. The directions contained in the Collector's order dated 25.10.2025 concerning protection of the railway tracks, necessary precautions and consultation with the Railway authorities for movement of heavy machinery are required to be observed in accordance with law. The Opposite Party shall remain bound by the applicable statutory requirements and the conditions governing use of the crossing. Any alleged violation of such

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47

requirements shall be open to examination by the competent authority or Court in accordance with law. The observations made in the present judgment shall not be construed as authorising any activity contrary to the prescribed railway safety requirements.

VI. CONCLUSION:

36. In view of the foregoing discussion, this Court finds no jurisdictional error, manifest perversity or material irregularity in the exercise of discretion by the Courts below warranting interference under Article 227 of the Constitution of India. Accordingly, the order dated 10.11.2025 passed by the learned Civil Judge (Junior Division), Chandikhole, in I.A. No. 44 of 2025 arising out of C.S. No. 98 of 2025, as affirmed by the judgment dated 16.12.2025 passed by the learned Additional District Judge, Chandikhole, in F.A.O. No. 62 of 2025, calls for no interference.

37. Consequently, the Civil Miscellaneous Petition stands **dismissed**.

38. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 30th October, 2026

Signature Not Verified
Digitally Signed
Signed by: BHABAGRAHI JHANKAR
Designation: AR-CUM-SR. SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 03-Nov-2026 15:59:47