



IN THE HIGH COURT OF ORISSA AT CUTTACK
RSA No.7 of 2025

Linus Kisan

.....

Appellant

Represented by Adv. -
Upendra Kumar Samal,
Sr.Adv.

-versus-

1) Philisia Lakra

.....

Respondents

- 2) Sanjay Lakra
3) Kanti Sanjita Lakra
4) Pratiti Kanchan Majhi
5) Lalma Kishan
6) Bibiana Kishan

Represented by Adv. -

CORAM:
MR. JUSTICE ANANDA CHANDRA BEHERA

ORDER
11.03.2026

Order No.

04. 1. This matter is taken up through hybrid mode.
2. Heard the 2nd appeal from the learned Sr.Counsel for the Appellant.
3. Admit the 2nd appeal on formulation of the following substantial questions of law i.e.:-
- (i) “When, the petition under Order 9 Rule 13 of the C.P.C. vide CMA No.22 of 2017 filed by the Appellants/Defendants for setting aside the ex parte judgment and decree passed by the learned Trial Court in the suit vide C.S. No.237 of 2016 was rejected and without preferring any misc. appeal under Order 43, Rule 1(d) of the C.P.C. challenging the order passed in CMA No.22 of



2017, whether the 1st Appeal vide R.F.A. No.5/19 of 2018-24 filed by the Appellants/Defendants for setting aside the ex parte judgment and decree passed in C.S. No.237 of 2016 against them (Defendants) was maintainable under law?”

(ii) When, the Respondents (Plaintiffs) had filed the suit vide C.S. No.237 of 2016 praying for declaration of title and recovery of possession in respect of the suit properties and when, as per the concurrent findings of the learned Trial Court as well as learned 1st Appellate Court, the prayer for declaration of title of the Respondents/Plaintiffs was refused, then, whether the Respondents/Plaintiffs were entitled to get the decree of recovery of possession in respect of the suit properties against the Appellants/Defendants and whether such concurrent findings of the learned Trial Court as well as learned 1st Appellate Court are sustainable under law?”

4. Issue notice to the Respondents.
5. The learned counsel for the Appellants is directed to file requisites within seven working days for issuance of notices to the Respondents through Speed Post.
6. Registry is directed to call for the photo copies of the LCRs of this 2nd appeal.
7. List this matter on 11.08.2026.

(ANANDA CHANDRA BEHERA)
Judge



05.

I.A. No.317 of 2026

1. This I.A. has been filed by the Petitioner praying for staying the further proceedings of Execution Case No.27 of 2017 pending before the learned Civil Judge (Senior Division), Sundargarh arising out of the judgment and decree passed in the suit vide C.S. No.237 of 2016.
2. When, the 2nd appeal vide R.S.A. No.7 of 2025 arising out of the judgment and decree passed in the suit vide C.S. No.237 of 2016 has already been admitted for hearing on merit, then, under this situation, if the further proceedings of Execution Case No.27 of 2017 shall not be stayed, then, the main purpose of preferring the 2nd appeal vide R.S.A. No.7 of 2025 shall be frustrated.
3. Therefore, the further proceedings of Execution Case No.27 of 2017 pending in the Court of learned Civil Judge (Senior Division), Sundargarh be stayed till next date.
4. List this I.A. on 11.08.2026 for objection and hearing.
5. Urgent certified copy of this order be granted to the Appellant on proper application.

(ANANDA CHANDRA BEHERA)
Judge

Binayak