



IN THE HIGH COURT OF ORISSA AT CUTTACK

I.A. No.379 of 2026 & R.S.A. No.450 of 2005

(In the matter of an application vide I.A. No.106 of 2026 under Order-23, Rule-3 of the Code of Civil Procedure, 1908)

Arati Patra

.... ***Petitioner/Appellant***

-versus-

Sanjay Kumar Patra

.... ***Opposite
Party/Respondent***

Appeared in this case:-

For Appellant : Mr. D.P. Mohanty, Advocate

For Respondent : Mr. S.N. Biswal, Advocate

**CORAM:
JUSTICE A.C. BEHERA**

JUDGMENT

Date of hearing : 19.03.2026 / date of judgment : 23.03.2026

A.C. Behera, J. This Joint Interlocutory Application under Order-23, Rule-3 of the C.P.C., 1908 has been filed jointly by both the parties in the 2nd appeal vide RSA No.450 of 2005 praying for disposing of the 2nd appeal vide RSA No.450 of 2005 on the basis of this Interlocutory Application vide I.A. No.379 of 2026.

2. The 2nd appeal vide RSA No.450 of 2005 was preferred against the judgment and decree passed in RFA No.39 of 2005 arising out of the



judgment and decree passed in the suit vide T.S. No.266 of 2004/401 of 1999.

3. The suit vide T.S. No.266 of 2004/401 of 1999 was a suit for declaration of title.

The said suit vide T.S. No.266 of 2004/401 of 1999 was filed by the plaintiff(appellant in the 2nd appeal vide RSA No.450 of 2005) against the defendant(respondent in the 2nd appeal vide RSA No.450 of 2005) praying for declaration of her title over the suit properties by virtue of adverse possession, for confirmation of possession and for permanent injunction against the defendant.

That suit vide T.S. No.266 of 2004/401 of 1999 was decreed by the learned trial court, but, the same was set aside by the learned 1st appellate court in RFA No.39 of 2005 and the suit of the plaintiff was dismissed.

For which, the plaintiff preferred 2nd appeal vide RSA No.450 of 2005 against the respondent/defendant, in which, the joint compromise petition under Order-23, Rule-3 of the C.P.C., 1908 vide I.A. No.379 of 2026 has been filed by the parties(Plaintiff and Defendant).

4. The joint compromise petition vide I.A. No.379 of 2026 of the parties is in writing and the same has been signed by both the parties on



being attested by their respective learned counsels. Their joint compromise petition in the form of I.A. No.379 of 2026 has been supported by separate affidavits of the parties stating about the settlement of the dispute relating to the suit properties between them(parties) as per the terms and conditions indicated therein and they(parties) are interested for the final disposal of the 2nd appeal vide RSA No.450 of 2005 on the basis of their joint compromise petition in the form of I.A. No.379 of 2026 and to form their I.A. No.379 of 2026 along with sketch therein as a part of the decree of the 2nd appeal vide RSA No.450 of 2005.

5. The signatures of the parties in the joint compromise petition vide I.A. No.379 of 2026 under Order-23, Rule-3 of the C.P.C., 1908 have been attested by their respective learned counsels.

6. In the joint compromise petition vide I.A. No.379 of 2026, it has been specifically stated by the parties as follows:-

“(i) The right, title, interest and possession of the appellant/plaintiff in respect of the properties described in the schedule of the I.A. is declared and respondent undertake not to enforce the Judgment and Decree passed by the learned Additional Civil Judge, (Sr. Division), 1st Court, Bhubaneswar in T.S. No.266 of 2004/401 of 1999 in her favour in any manner whatsoever;

(ii) The respondent/defendant hereby relinquished his right, if any, in the specific portions of the suit properties described in the schedule of



the I.A. and reflected in the Sketch Map in favour of the appellant/plaintiff and as a gesture of good will, the appellant/plaintiff paid an amount of Rs.2,00,000/-(rupees two lakhs) only to the respondent/defendant, who acknowledged the same; and

(iii) It is hereby agreed by the parties that, pursuant to the decree passed by this Hon'ble Court in the present Regular 2nd appeal vide RSA No.450 of 2005, on compromise, the appellant/plaintiff shall be at liberty to correct the revenue papers and mutate her name in respect of property mentioned in I.A. and indicated in Sketch Map in her own name before the revenue and municipal authorities."

7. The above terms and conditions indicated in the joint compromise petition vide I.A. No.379 of 2026 is clearly and unambiguously going to show that, the appellant(plaintiff) had no pre-existing title in the suit properties and her title in the specific portions of the suit properties indicated in I.A. No.379 of 2026 and shown in the attached Sketch Map is to be created for the 1st time on the basis of the compromise decree passed in the 2nd appeal vide RSA No.450 of 2005 arising out of the suit vide T.S. No.266 of 2004/401 of 1999.

8. Therefore, as per law, unless the compromise decree will be registered, the same cannot given effect to or the same will not have any binding effect on the parties.

On this aspect the propositions of law has already been clarified in the ratio of the following decisions:-



(i) In a case between ***Mukesh vrs. State of M.P. and another*** decided in ***Civil Appeal No.14808 of 2024*** that, a compromise decree shall not be registered when there will be pre-existing right in favour of the party in whose favour the same passed on the basis of compromise over the properties and the compromise should not create the right for the first time.

(ii) In a case between ***Bhoop Singh vrs. Ram Singh Major*** : reported in ***(1995) 5 SCC-709*** that, if the compromise decree were to create for the first time right, title or interest in immovable property of the value of Rs.100/- upwards in favour of any party to the suit, the compromise decree or order would require registration.

(iii) In a case between ***Kishore Kumar Mohanty vrs. Saroj Kumar Mohanty and Others*** : reported in ***2018 (1) CLR-613*** that, compromise decree creating right, title instead in immovable property, value of which more than 100 for the first time in favour of a party is required registration. (Para No.8)

(iv) In a case between ***Kishore Kumar Mohanty vrs. Saroj Kumar Mohanty and Others*** : reported in ***2017 (2) OLR-729*** that, when in the instant case, compromise petition for the first time, right in immovable property in favour of JDR No.2 is created and value of which is more than 100, decree would require registration. Direction issued for registration. In the event of non-registration of the compromise decree, the same shall not be given effect and the same shall not have any binding effect.



9. Here in this matter at hand, when on the basis of the joint compromise petition between the appellant(plaintiff) and the respondent(defendant), the title in respect of the suit properties indicated in I.A. No.379 of 2026 and shown in the Sketch Map attached with the I.A. No.379 of 2026 having value of more than Rs.2,00,000/-(rupees two lakhs) is created for the first time in favour of the appellant/plaintiff, then at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions, the joint compromise petition vide this I.A. No.379 of 2026 filed by the appellant/plaintiff and respondent/defendant is to be accepted subject to its enforceability only after registration of the same.

10. On the basis of the aforesaid observations, the joint compromise petition under Order-23, Rule-3 of the C.P.C., 1908 vide I.A. No.379 of 2026 and the 2nd appeal vide RSA No.450 of 2005 are disposed of as per Order-23, Rule-3 of the C.P.C., 1908 according to the terms and conditions indicated in I.A. No.379 of 2026 and the compromise petition vide I.A. No.379 of 2026 along with its attached Sketch Map shall do form part of the Judgment and Decree of the 2nd appeal vide RSA No.450 of 2005 subject to the enforceability of this joint compromise decree on the basis of I.A. No.379 of 2026 between the appellant and the respondent only after its registration making it clear that, in the event of



non-registration of this joint compromise decree of the parties, the same shall not be given effect to and the same shall not have any binding effect on the parties.

11. On the basis of the aforesaid observations, this I.A. as well as RSA No.450 of 2005 are disposed of finally.

(A.C. Behera)
Judge

Orissa High Court, Cuttack
The 23rd of March, 2026/ Jagabandhu, P.A.