



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.253 of 2026

Prem Kishor Panda

.....

Petitioner

Represented by Adv. -
Trilochan Nanda

-versus-

Kasturi Biswal & Ors.

.....

Opposite Parties

Represented by Adv. -

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
23.02.2026

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner. Perused the CMP application as well as the prayer made therein.
3. By filing the present application under Article 227 of the Constitution of India, the Petitioner, who was not arrayed as a party to CS No.45 of 2018, has approached this Court being aggrieved by the order dated 29.10.2025 passed by the learned District Judge, Balangir in CMA No.20 of 2023 thereby granting leave to file an appeal against the judgment dated 18.01.2022 passed in CS No.45 of 2018 by the learned Senior Civil Judge, Bolangir. He further contended that after the leave was granted an appeal has been filed by the Opposite Party No.1 which has been registered as RFA No.21 of 2023.
4. While assailing the order granting leave dated 29.10.2025,



learned counsel for the Petitioner at the outset contended that while granting leave the learned first appellate court has not taken into consideration the delay in filing such appeal. He further contended that before granting leave the learned first appellate court should have considered the substantial delay in approaching the court seeking leave to prefer an appeal. Since, the delay part in approaching the learned first appellate court for grant of leave has not been taken into consideration, therefore, the impugned order dated 29.10.2025 is bad in law. Accordingly, it was prayed that such order be quashed.

5. Having heard the learned counsel appearing for the Petitioner, this Court is of the view that the Opposite Party No.1 was not party to the CS No.45 of 2018 which was disposed of on 18.01.2022. Therefore, the judgment dated 18.01.2022 was not within the knowledge of the Opposite Party No.1. Moreover, the Opposite Party No.1 being not a party to the suit could not have preferred any appeal without the leave of the court although they claimed that they have been affected by the final judgment dated 18.01.2022. In such view of the matter, this Court is of the view that the learned First Appellate Court has not committed any illegality which would warrant interference by this Court. However, the ground of limitation and the delay in seeking leave to prefer an appeal can very well be raised in the pending appeal by the Petitioner. In such view of the matter, the present CMP application is being disposed of by granting leave to the Petitioner to raise the ground of limitation, if so advised, in the pending appeal and, in such eventuality, the learned first appellate court shall consider the same strictly in accordance with law while



hearing the pending RFA No.21 of 2023.

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

(A.K. Mohapatra)
Judge

Anil