



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.314 of 2026

Dasarathi Pradhan @ Dasa

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Petitioner

Represented by Adv. -
Lambodar Achari

-versus-

Ananta Pradhan & Ors.

.....

Opposite Parties

Represented by Adv. –
Krupasindhu Sahoo (for
Caveator)

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR

MOHAPATRA

ORDER

20.03.2026

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the Caveator-Petitioner. Perused the CMP application as well as the prayer made therein.
3. By filing the present application, the plaintiff in CS No.15 of 2009 pending before the learned CJ (JD) Dasgupta, Nayagarh has approached this Court by filing the present application under Article 227 of the Constitution of India thereby challenging the impugned order dated 20.12.2025 at Annexure-5 to the CMP application. By virtue of the impugned order dated 20.12.2025, the learned trial court has dismissed the prayer of the plaintiff to expunge the evidence of the DW 1.
4. Learned counsel for the Petitioner at the outset contended that the DW 1, namely, Ananta Pradhan was examined and cross-



examined in the suit. Thereafter, on an application being filed by the plaintiff, he was recalled for further cross-examination vide order dated 01.09.2025. On perusal of the impugned order dated 20.12.2025, it appears that the abovenamed DW 1, who is aged about 70 years, was ailing, therefore, he could not appear before the learned trial court. Thus, the plaintiff was deprived of the opportunity to further cross-examine DW 1. Learned counsel for the Petitioner thereafter moved an application with a prayer to expunge the entire evidence of the DW 1 that was recorded during the trial of the suit. Such application having been rejected by the learned trial court, the Petitioner has approached this Court by filing the present CMP application.

5. On perusal of the order dated 20.12.2025 at Annexure-5 and on a close scrutiny thereof, this Court found that the learned trial court has not committed any illegality in rejecting the prayer of the Petitioner to expunge the entire evidence of the DW 1. Therefore, the impugned order does not call for any interference by this Court at this stage. However, while disposing of the present application, liberty is granted to the Petitioner to move an application before the learned trial court to recall DW 1 subject to the health condition of the DW 1, the learned trial court shall pass necessary orders thereon.

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

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 23-Mar-2026 14:11:44

