



IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.351 of 2025

Padmabati Kamila & others .... **Petitioners**

Mr. A.P. Bose, Advocate

-Versus-

Usharani Rana & others .... **Opposite Parties**

Mr. D.P. Mohanty, Advocate  
(O.P. Nos.3 & 4)

**CORAM:**

**MR. JUSTICE R.K. PATTANAIK**

**ORDER**

**28.03.2025**

**Order No.**

01.

1. Heard Mr. Bose, learned counsel for the petitioners and Mr. Mohanty, learned counsel for opposite party Nos.3 & 4.
2. No notices are issued to the other opposite parties as the matter is disposed of at the stage of admission.
3. Instant petition is filed by the petitioners challenging the impugned order dated 20<sup>th</sup> February, 2025 passed in connection with C.S. No.38/79 of 2015-I by learned 3<sup>rd</sup> Additional Senior Civil Judge, Balasore as at Annexure-1, whereby, an application for impletion of the lis pendens purchasers as defendants in terms of Order 1 Rule 10(2) CPC was declined.
4. Mr. Bose, learned counsel for the petitioners submits that the learned Court below miserably failed in considering such impletion taking note of the citations referred to and relied upon from the side of the petitioners. The submission is that if the lis pendens purchasers are not impleaded as defendants, there would



be multiplicity of litigations, which is to be avoided at any cost. A copy of the memo as at Annexure-5 with the case laws cited therein are referred to by Mr. Bose, learned counsel, who submits that it was for the learned Court below to examine the same with regard to demand for impleading the lis pendens purchasers as defendants as it has not been looked into, so, therefore, the impugned decision vide order dated 20<sup>th</sup> February, 2025 vide Annexure-1 is liable to be set aside with a remand for a fresh decision on Annexure-3.

5. Mr. Mohanty, learned counsel for opposite party Nos.3 & 4 seriously objects to such request of impletion as per Order 1 Rule 10(2) CPC on the ground that it was too late an attempt from the side of the petitioners especially when the suit is on the verge of disposal and pending at the stage of argument. The further submission of Mr. Mohanty, learned counsel is that the names of the lis pendens purchasers were pleaded in the WS and additional WS filed by the defendants but the petitioners remained silent all along and when the suit is ready for disposal, the application for impletion of some of the lis pendens purchasers as per Annexure-3 is filed and the learned Court below has rightly declined to entertain it and passed the impugned order i.e. Annexure-1 and hence, the same is perfectly justified and in accordance with law. The submission is also to the effect that any such disposals in favour of the lis pendens purchasers shall be subject to the decree in the suit and any of them may even be added as parties in the final decree proceeding, if so required. The contention of Mr. Mohanty, learned counsel is that there may be adjustment of shares sold in favour of the lis pendens purchasers at the time of passing of the decree and hence, there is absolutely no need for any such impletion, particularly at this stage, which is further to delay the disposal of the suit.



6. Referring to the case laws reported in **Bhagirathi Mahalik Vrs. Markanda Barik and others 2014 (II) CLR 619**, **Bhanumani Sahu and others Vrs. State of Orissa and another 2012 (II) OLR 1001** and **B. Lalita Pradhanuni Vrs. Jasoda Padhununi & others 2007 (II) CLR 245** mentioned in Annexure-5, Mr. Bose, learned counsel for the petitioners submits that the Court has a discretion to allow the lis pendens purchasers to be added as defendants especially in order to avoid multiplicity of litigations. It is also submitted that there may be a possibility and difficulty in future in case any of the coparceners sold in excess of shares in favour of the lis pendens purchasers, hence, therefore, in order to prevent any such eventuality, learned Court below was required to exercise such discretion and should have allowed the impletion.

7. A copy of the WS filed by defendant Nos.1 & 2 is produced by Mr. Mohanty, learned counsel for opposite party Nos.3 & 5. The copies of the WS and additional WS of defendant Nos.3 & 4 have also been produced and the same are gone through. The pleadings from the side of the defendants before the learned Court below, from the very inception, alleged disposals in favour of lis pendens purchasers. It is claimed by Mr. Mohanty, learned counsel that even with such a pleading on record since long, the petitioners have not claimed impletion of all the lis pendens purchasers.

8. Considering the submissions of learned counsel for the respective parties and the fact that there has been closure of evidence in the meantime and the suit at present pending at the stage of argument, the Court is of the view that there is no need for impleading the lis pendens purchasers, as it would further delay the disposal. In order to allay apprehension of the petitioners with regard to excess of shares sold in favour of the lis pendens



purchasers, considering the submission in that regard by Mr. Bose, learned counsel, the Court is of the view that necessary adjustments may be had at the time of passing of the decree. In other words, the decree which is likely to be drawn in the suit shall take into account the respective sales by the coparceners in favour of the lis pendens purchasers. With such conclusion, the Court is of the view that the learned Court below has rightly declined to entertain such impletion of the lis pendens purchasers at this distant point of time when the suit is on the verge of disposal. The Court is also of the view that there is no need for remand for a fresh decision on impletion by learned Court below with references to the case laws cited as per Annexure-5. The delay has taken the toll and therefore, at the stage of argument, the impletion vis-à-vis lis pendens purchasers is not to be allowed. The Court is in agreement with the conclusion reached by the learned Court below and hence, is not in favour of disturbing the impugned order as at Annexure-1.

9. Accordingly, it is ordered.

10. The CMP stands disposed of, however, in the circumstances, there is no order as to costs.

**(R.K. Pattanaik)**  
**Judge**

Alok

**Signature Not Verified**

Digitally Signed  
Signed by: ALOK RANJAN SETHY  
Reason: Authentication  
Location: ORISSA HIGH COURT  
Date: 03-Apr-2025 12:40:31

