



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.536 of 2026

Giridhari @ Giridhar Pradhan
and others

.....

Petitioners

Represented by Adv. –
Mr. P.K. Rath, Senior
Advocate along with
Mr. Saibrata Rath

-versus-

P.S. Prasad

.....

Opposite Party

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA
ORDER
26.03.2026

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. Heard Mr. P.K. Rath, learned Senior Counsel appearing for the Petitioner. Perused the CMP application as well as the prayer made therein.
 3. By filing the present CMP application under Article 227 of the Constitution of India, the Plaintiffs in Title Suit No.99 of 1999 pending in the court of the learned Civil Judge, Junior Division, Berhampur, have approached this Court thereby challenging the order dated 05.03.2026 passed by the learned Civil Judge (Junior Division), Berhampur in the above noted suit.
 4. Mr. P.K. Rath, learned Senior Counsel appearing for the



Petitioners, at the outset, contended that initially the Plaintiffs filed a suit for specific performance of the contract and suit was decreed ex parte by virtue of judgment and decree dated 13.05.2003. He further contended that in the above noted suit, the Plaintiffs-Petitioners filed certain documents, as is evident from the certified copy of the order dated 06.03.2003. Further, referring to the judgment dated 13.05.2003, learned Senior Counsel appearing for the Petitioners contended that the suit was decreed referring to the aforesaid documents filed by the Plaintiffs and the Defendant was directed to execute the sale deed in respect of the suit land.

5. Learned Senior Counsel appearing for the Petitioners further contended that after disposal of the suit, the Defendant appeared and filed an application for restoration of the suit by setting aside the ex parte judgment and decree. Learned trial court, as it appears, has allowed such application and now the suit is posted for further hearing. In course of hearing of the suit, the Plaintiffs filed an application under Section 151 of C.P.C. on 22.01.2026 with a prayer to reconstitute the record as some of the documents, which were filed earlier, are found to be missing. The learned trial court, by virtue of the impugned order dated 05.03.2026, rejected the application by a detailed order on the ground that allowing such application will amount to permitting the Petitioner to adduce secondary evidence. In reply to the aforesaid ground taken by the



learned trial court, learned Senior Counsel appearing for the Petitioners contended that the prayer in the application of the Plaintiffs was to reconstitute the record, as it was found that some of the documents filed earlier on 06.03.2003 are missing. However, the learned trial court has come to a conclusion that the present application is in the nature of adducing secondary evidence and, accordingly, rejected the application of the Plaintiffs and further the Plaintiffs were directed to file the original agreement for sale and they were further directed to adduce evidence in that regard. Being aggrieved by the aforesaid order, the Plaintiffs-Petitioners have approached this Court by filing the present CMP application.

6. Having heard the learned Senior Counsel appearing for the Petitioners and on a careful examination of the factual background of the present case, further on a close scrutiny of the impugned order dated 05.03.2026, this Court is of the view that the matter requires further examination in presence of the Opposite Party.

7. Hence, issue notice to the sole Opposite Party by Speed Post with A.D. by fixing a short returnable date. Requisites be filed within a week hence.

8. Further, registry is directed to call for a report from the learned District Judge, Ganjam at Berhampur with regard to



the allegation made by the Plaintiffs regarding missing documents from the court record.

9. Let the learned District Judge, Ganjam be informed by calling for the record and to examine the said aspect and submit a report before this Court through the registry of this Court by the next date.

I.A. No.580 of 2026

10. Heard the learned counsel for the Petitioners.

11. As an interim measure, it is directed that on an application being filed by the Petitioners before the learned trial court seeking adjournment of T.S. No.99 of 1999, the learned trial court shall do well to adjourn the proceeding of the suit for a period of six weeks.

(Aditya Kumar Mohapatra)
Judge

Debasis