



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.686 of 2026

Manas Kumar Das @ Dash

.....

Petitioner

Represented By Adv. –
Mr. Arun Kumar Behera

-versus-

Jayanti Das and others

.....

Opposite Parties

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

30.04.2026

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. The Defendant No.3 in Civil Suit No.173 of 2013, which was disposed of by the learned Senior Civil Judge, Jaleswar, has approached this Court by filing the CMP application under Article 227 of the Constitution of India, thereby challenging the notice dated 04.04.2026 at Annexure-3 series issued by the Survey Knowing Commissioner appointed by the learned Civil Judge (Senior Division), Jaleswar in Final Decree No.173 of 2013.
 4. Learned counsel for the Petitioner, at the outset,



contended that the above noted suit bearing Civil Suit No.173 of 2013 was disposed of ex parte vide judgment dated 28.11.2024 and a decree was done on 20.12.2024. Thereafter, a final decree proceeding has been initiated wherein a notice has been issued thereby appointing a Survey Knowing Commissioner. Challenging such notice, the Petitioner has approached this Court by filing the present CMP application.

5. In course of his argument, learned counsel for the Petitioner contended that the Petitioner has already approached the learned trial court by filing C.M.A. No.106 of 2026, which is pending before the learned Civil Judge (Senior Division), Jaleswar. He further contended that before such application filed under Order-9 Rule-13 of the C.P.C. for setting aside the ex parte decree is taken up and disposed of, learned executing court proceeded with the final decree proceeding and, accordingly, a Survey Knowing Commissioner has been appointed. Being aggrieved by such conduct of the trial court, the Petitioner has approached this Court by filing the present CMP application.

6. On a careful consideration of the submission made by the learned counsel appearing for the Petitioner and upon verification of the documents annexed to the present CMP application, further on a close scrutiny of the factual background of the present case, this Court found that the Petitioner has already approached the learned Civil Judge (Senior Division), Jaleswar by filing a C.M.A. No.106 of 2026 under Order-9 Rule-13 of the CPC. for setting aside



the ex parte decree.

7. In such view of the matter, this Court deems it proper to dispose of the present CMP application by directing the trial court to expedite the hearing of the C.M.A. No.106 of 2026 and every endeavour shall be made to dispose of the same as expeditiously as possible, preferably within a period of three months. It is further directed that till disposal of the C.M.A. application, though the final decree proceeding was complete, however the sealing and signing of the final decree proceeding shall await till final disposal of the CMA application as has been directed hereinabove.

8. With the aforesaid observation and direction, the CMP stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Debasis