



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.771 of 2025

Khirod Kumari Devi

.... ***Petitioner***

Mr. J. Barik, Advocate

-versus-

***Christian Catholic Church of
Berhampur, represented by its Bishop
Rt. Rev. Joseph Das and Others***

.... ***Opposite Parties***

Mr. T.K. Dash, AGA

Mr. B. Routray, Senior counsel for O.P.1

Mr. P.K. Lenka, counsel for O.P. No.2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
16.12.2025

Order No.

- 07.
1. Heard Mr. J. Barik, learned counsel for the petitioner, Mr. B. Routray, learned senior counsel for opposite party no.1, Mr. P.K. Lenka, learned counsel for opposite party no.2 and Mr. T.K. Dash, learned AGA for state – opposite party.
 2. Present CMP is directed challenging orders dated 26th November, 2024, 29th November, 2024 and 5th December, 2024 of learned Civil Judge, Senior Division, Berhampur passed in CS No.273/2003 CJ(SD) and CS No.28/2012 (T)CJ(JD).
 3. Defendant No.8 filed a petition under Order 6 Rule 17 C.P.C. and another under Section 80(2) of C.P.C., both dated 7th October, 2023. Both the petitions were posted to 26th November, 2024 for further hearing and on 26th November, 2024 said petitions were rejected as not prosecuted. Then a petition was filed by defendant no.8



to recall said order dated 26th November, 2024 which was also rejected on 29th November, 2024. Then again he filed another petition to recall said order dated 29th November, 2024 which was also rejected on 5th December, 2024. Thus, all the three impugned orders connect to one prayer, i.e. against rejection of both the petitions on the ground of non-prosecution.

4. Mr. Routray, learned senior counsel for the plaintiff (present opposite party) submits that defendant no.8 wants to insert his counter claim by taking recourse of the provisions for amendment under Order 6, Rule 17 C.P.C. which is not permissible.

5. However, this court is not inclined to enter into the merits of the petitions of defendant no.8 at this stage which is left open to be decided by the learned trial court.

6. Since it is seen that the petitions filed by defendant no.8 were though heard in-part earlier (as per order dated 13th November, 2024 of the trial court) but the same were dismissed for non-prosecution on the subsequent date, i.e. 26th November, 2024, in such premises it is found incumbent upon the trial court to hear the prayer of defendant no.8 in both of his petitions to decide the same on merit in accordance with law.

7. Accordingly the impugned orders dated 26th November, 2024, 29th November, 2024 and 5th December, 2024 are set aside and the CMP is disposed of with a direction to the learned trial court to hear defendant no.8 and other concerned parties and dispose of the petitions dated 7th October, 2023, in accordance with law, on a date to be fixed by the trial court.

Signature Not Verified

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Signed by: MANAS KUMAR PANDA
Reason: Authentication
Location: OHC, Cuttack
Date: 16-Dec-2025 18:12:21



8. With aforesaid observation and direction the CMP is disposed of.

(B.P. Routray)
Judge

M.K.Panda