



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.726 of 2026

Sudhanshu Sekhar Jena

.....

Petitioner

Represented by Adv. -
Budhiram Das

-versus-

Ranjan Jena and others

.....

Opposite Parties

Represented by Adv. -
Srinivas Mohanty, K.
Patra, S.R. Mohanty, E.
Dash (Caveator), Mr.
Sidharth Shankar Mishra

CMP No.743 of 2026

***Ranjan Jena @ Ranjan
Kumar Jena***

.....

Petitioner

Represented by Adv. –
Sidhartha Mishra

-versus-

***Sudhanshu Sekhar Jena and
others***

.....

Opposite Parties

Represented by Adv. –
Budhiram Das

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

04.05.2026

Order No.

- 02.
1. These matters are taken up through Hybrid mode.
 2. Heard Mr. B. Das, learned counsel for the Petitioner in CMP No.726 of 2026, who also appears for the Opposite Parties in CMP No.743 of 2026. Similarly, Heard Mr. S. Mishra, learned counsel for



the Petitioner in CMP No.743 of 2026, who also appears for the Opposite Parties in CMP No.726 of 2026.

3. Since both the CMP applications arise out of a common order passed by the learned Additional District Judge, Jaleswar in FAO No.149 of 2025 disposed of vide judgment dated 17.02.2026 which arises out of a common order dated 06.08.2025 in I.A. No.33 of 2025, corresponding to C.S. No.179 of 2025 pending in the Court of Civil Judge (Senior Division), Jaleswar, both the applications were heard together and the same are being disposed of by the following common order.

4. The Petitioner in CMP No.743 of 2026, who happens to be the plaintiff in C.S. No.179 of 2025 filed a suit for partition and consequential relief arraying the defendants, who are the co-sharers, including the Petitioner in CMP No.726 of 2026. Along with the suit the plaintiff (Petitioner in CMP No.743 of 2026) filed an I.A. bearing I.A. No.33 of 2025 under Order-39, Rule-1 & 2 of CPC. The learned trial Court by virtue of order dated 06.08.2025 considered and disposed of the I.A. filed by the plaintiff under Order-39, Rule-1 & 2 of CPC and disposed of such application vide order dated 06.08.2025 at Annexure-4 to the CMP application. On perusal of order dated 06.08.2025, it appears that the learned trial Court partly allowed the application of the plaintiff in respect of Lot No.1 of the I.A. scheduled property on contest against Opposite Party Nos.1 & 2 and dismissed on contest against Opposite Party No.3. The Opposite Party No.1 was temporarily restrained from alienating Lot No.1 of the I.A. scheduled property in any manner till disposal of the suit. The other part of the prayer in the I.A. application was rejected.



5. Being aggrieved by the impugned order dated 06.08.2025, the plaintiff (Petitioner in CMP No.743 of 2026) preferred an appeal before the learned First Appellate Court, i.e. the court of learned Additional District Judge, Jaleswar by filing FAO No.149 of 2025. Such appeal was confined to the extent of the interim relief not granted by the trial Court on the application of the plaintiff under Order-39, Rule-1 & 2 which was disposed of vide the impugned order dated 06.08.2025 at Annexure-4. The learned First Appellate Court after hearing both sides vide judgment dated 17.02.2026 at Annexure-5 disposed of the appeal thereby modifying order dated 06.08.2025 at Annexure-4 passed by the learned trial Court on the application of the plaintiff.

6. Mr. S. Mishra, learned counsel appearing for the plaintiff (Petitioner in CMP No.743 of 2026) at the outset contended that the plaintiff, being aggrieved by the relief which was rejected by the learned trial Court while passing order dated 06.08.2025, preferred the appeal before the First Appellate Court. He further contended that the part of the order which was in favour of the plaintiff was never assailed by the plaintiff-Appellant before the First Appellate Court. He further submitted that the learned First Appellate Court committed a jurisdictional error and has gone beyond the scope of the appeal and has altered the entire order dated 06.08.2025 at Annexure-4. While demonstrating the jurisdictional error Mr. S. Mishra, learned counsel for the plaintiff-Petitioner contended that the learned trial Court has passed an order in respect of Lot No.1 of I.A. scheduled property temporarily restraining the Opposite Party No.1, who is defendant No.1 to the suit. He further specifically argued that such part of the direction was never assailed by the Petitioner-plaintiff before the Appellate Court. However, the learned



Appellate Court modified the same by virtue of the impugned order dated 17.02.2026, thereby the order of restraint against the respondent No.1 who is defendant No.1 was set aside. On such ground, learned counsel for the Petitioner-plaintiff contended before this Court that the entire impugned order at Annexure-5 dated 17.02.2026 is unsustainable in law, as the same is hit by jurisdictional error committed by the learned First Appellate Court. Accordingly, a prayer was made for setting aside of such order.

7. Mr. B. Das, learned counsel appearing for the Petitioner-defendant No.1 in CMP No.726 of 2026 contended before this Court that initially the learned trial Court, on the application of the plaintiff, passed the order dated 06.08.2025, thereby restraining the defendant from alienating the property. He further contended that though such order was modified by the Appellate Court vide order dated 17.02.2026 at Annexure-5 and the restraint order was set aside, however, the learned Appellate Court passed another direction that if the respondent No.1 makes any kind of transaction related to Lot No.1 property, the same shall remain subject to the final result of the suit. Citing specifically the Order No.(i) & (iv), learned counsel for the defendant-Petitioner contended before this Court that such directions are contrary to each other. As such, learned counsel for the defendant-Petitioner submitted that the impugned order dated 17.02.2026 at Annexure-5 is unsustainable in law, and accordingly, the same should be set aside.

8. Having heard the learned counsels appearing for the respective parties, on a careful examination of the background facts, further taking note of the documents annexed to the CMP application, and on a careful scrutiny of the impugned order dated



06.08.2025 at Annexure-4 passed by the learned trial Court and the judgment dated 17.02.2026 passed by the First Appellate Court in FAO No.149 of 2025, which has been specifically assailed in both the CMP applications which are being disposed of by this common order, this Court found that the learned First Appellate Court has committed a jurisdictional error while passing order dated 17.02.2026. As such, order dated 17.02.2026 is unsustainable in law. Therefore, the same is hereby set aside. Further, while disposing of the present CMP applications with the consent of both sides, this Court directs the parties to maintain status-quo over the suit scheduled property till disposal of the suit. Taking into consideration the peculiar facts and circumstances of the present case, and further taking into consideration the request made by the learned counsels appearing for both sides, this Court directs the learned trial Court to make every endeavor to dispose of the suit as early as possible, preferably within a period of one year and till disposal of such suit the aforesaid status-quo order shall continue. The parties to the suit are directed to cooperate with the learned trial Court for an early conclusion of the trial and they shall not seek for any unnecessarily adjournment in the suit.

9. With the aforesaid observations/directions, the CMP applications stand disposed of.

(Aditya Kumar Mohapatra)
Judge