



IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.773 of 2025

Priti Behera

.... **Petitioner**

Mr. S.K. Pattanaik, Advocate

-versus-

Badani Samal

.... **Opposite Party**

Ms. S. Das, Advocate

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
10.10.2025**

**Order No.
04.**

1. Heard Mr. S.K. Pattanaik, learned counsel for the Petitioner and Ms. S. Das, learned counsel for the Opposite Party.

2. Present C.M.P. is directed against the order dated 29.1.2025 passed by the learned Civil Judge (Jr. Divn.), Ist Court, Cuttack in Execution Case No.03/2021, wherein the prayer of the J.Dr. (present Petitioner) to recall the order dated 06.02.2024 has been rejected.

3. Present Opposite Party filed the suit and got *ex-parte* decree in her favour, wherein present Petitioner was the Defendant. Then the Petitioner preferred R.F.A. No.34 of 2020 before the appellate court and the same is still pending adjudication till date. In the meantime, the Plaintiff filed Execution Case No.03 of 2021 and in said execution case, the Defendant-cum-J.Dr. was set *ex-parte* vide order dated 06.02.2024. Coming to know about said order dated 06.02.2024, the J.Dr. prayed to recall the order dated 06.02.2024.

4. It is submitted on behalf of the Petitioner (J.Dr.) that though notice on her in the given address was stated to be validly served,



but the fact remains that she is now residing at Mumbai and therefore could not be able to appear before the executing court on the date fixed.

5. On the other hand, Ms. S. Das submits on behalf of the Opposite Party that, the J.Dr. is deliberately delaying the execution where the given address of the J.Dr. at Cuttack is never denied by her.

6. As stated earlier, admittedly the appeal preferred by the Defendant (J.Dr.) in R.F.A. No.34/2020 is pending adjudication. At the same time, the D.Hr. (Plaintiff) is proceeding for execution of the decree which is undoubtedly an *ex-parte* decree. Therefore, it is very much necessary in the interest of justice to give one more opportunity to the J.Dr. for her say in the execution case.

7. Accordingly, granting one more opportunity to the J.Dr., the prayer of the Petitioner is allowed and the learned Executing Court is directed to grant an opportunity of hearing to the present Petitioner to contest in the execution case.

8. With the aforesaid observation and direction, the C.M.P. is disposed of.

9. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

B.K. Barik