



**AFR**

**ORISSA HIGH COURT : CUTTACK**

**I.A. No.1717 of 2025 arising out of**

**R.S.A. No.170 of 2019**

In the matter of an appeal under Section 100 C.P.C, 1908.

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Niranjan Swain ... **Appellant.**

*-VERSUS-*

Archi Rout & Others ... **Respondents.**

***Counsel appeared for the parties:***

For the Appellant : Mr. P.K. Ghose, Advocate.

For the Respondents : Mr. Ranendra Pratap Rout, Adv.  
Appearing on behalf of  
Mr. Debasish Samal, Advocate.

*P R E S E N T:*

**HONOURABLE  
MR. JUSTICE ANANDA CHANDRA BEHERA**

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**Date of Hearing : 23.03.2026 :: Date of Judgment : 23.03.2026**

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## **JUDGMENT**

***ANANDA CHANDRA BEHERA, J.—***

**1.** This I.A. has arisen out of the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019.

**2.** The petitioner (appellant in the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019) has filed this I.A. under Order 39, Rule 1 & 2 read with Section 151 of the CPC, 1908 against the Opp. Parties (respondent Nos.11(a), 11(b), 11(c), 12 and 13 of the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019) praying for restraining the Opp. Parties temporarily from interfering in their possession in the suit properties, and to restrain them (Opp. Parties) from alienating the suit properties to any person till the final disposal of the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019 stating in his petition that, he (petitioner) was the plaintiff in the suit vide C.S. No.31 of 1995 and in that suit vide C.S. No.31 of 1995, he had prayed for declaration of his right, title, interest and possession over the suit properties and to declare that, the sale deed No.887 dated 20.06.1996 executed by the defendant Nos.1 and 2 in favour of the defendant No.5 as



illegal, void and inoperative and not binding upon him (plaintiff) being hit by Section 52 of the T.P. Act, 1882.

When the learned Trial Court dismissed to the suit vide C.S. No.31/1995 of the petitioner/plaintiff as per its Judgment and Decree dated 26.09.2016 and 05.10.2016 respectively assigning the reasons that,

*“he (petitioner-plaintiff) failed to establish his right, title and interest over the suit properties and also refused to declare the sale deed vide R.S.D No.887 dated 20.06.1996 as void, illegal and inoperative”*

then, he (petitioner/plaintiff) preferred 1<sup>st</sup> Appeal vide R.F.A. No.04 of 2017, but that R.F.A.No.04 of 2017 of the petitioner/plaintiff was dismissed.

**3.** Then, he (petitioner/plaintiff) preferred the 2<sup>nd</sup> Appeal vide R.S.A No.170/2019.

In the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019, the petitioner/plaintiff filed this I.A. No.1717 of 2025 under Order 39, Rule 1 & 2 of the CPC, 1908 against the Opp. Parties praying for the aforesaid prayer i.e. temporary injunction.

**4.** The Opp. Parties have objected the same by filing their objection stating that, the learned Trial Court as well as



learned First Appellate Court in their respective Judgments and Decrees passed in C.S. No.31/1995 and R.F.A. No.04 of 2017 respectively, it has been held that, the petitioner/plaintiff/appellant has no right, title, interest and possession over the suit properties, for which, the petitioner has no prima facie case in his favour to get an order of temporary injunction against them (Opp. Parties).

Therefore, the I.A. of the petitioner/plaintiff/appellant for temporary injunction is liable to be dismissed.

**5.** I have already heard for the learned counsel for the petitioner and the learned counsel for the Opp. parties.

**6.** When, the learned First Appellate Court in Para No.9 of the Judgment and Decree passed in R.F.A. No.04/2017 has held that, the petitioner/plaintiff/appellant has failed to establish his title and possession over the suit properties and accepted the findings of the learned Trial Court relating to the same and when the petitioner has challenged the above Judgment and Decree passed by the learned 1<sup>st</sup> Appellate Court in R.F.A. No.04/2017 preferring the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019 and when this I.A. has arisen out of the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019 and when it is the



duty of every Court to keep the suit properties as it is in status quo during the pendency of the litigation and when it is the settled propositions of law as per the ratio of the decisions between ***Sri Rabindra Kumar Mohanty Vs. Smt. Sujata Mohapatra & Others*** reported in ***2015 (2) O.J.R. (297)*** & ***M/s. Graftek Pvt. Ltd. and Others vs. Sri Lord Lingaraj Mahaprabhu Bije, Bhubaneswar*** reported in ***1998 (II) O.L.R. 404*** that, no irreparable loss can be caused to the petitioner/plaintiff/appellant, if there is alienation during the pendency of the suit/appeal, as the alienee would be bound by the decision in the Civil Suit, whether or not the purchasers are impleaded as parties to the suit/appeal, as the purchasers will be squarely governed by doctrine of lis pendens, for which, the so-called apprehension of the petitioner for restraining the Opp. Parties from alienating the suit properties during the pendency of the 2<sup>nd</sup> Appeal is baseless.

**7.** In view of the above propositions of law, when refusal to the prayer of the petitioner to restrain the Opp. Parties from alienating the suit properties during the pendency of the 2<sup>nd</sup> Appeal vide R.S.A No.170/2019 will not cause any irreparable



loss to the petitioner/plaintiff/appellant, then, at this juncture, taking the above findings of the learned First Appellate Court in Para No.9 of its Judgment into account and applying the principles of law enunciated in the ratio of the aforesaid decisions to this matter at hand,

*this I.A. No.1717 of 2025 under Order 39, Rule 1 and 2 of the CPC, 1908 filed by the petitioner/plaintiff/appellant is disposed of finally directing both the parties in this I.A. to keep the physical existence of the suit properties as it is in status quo during the pendency of R.S.A. No.170 of 2019 refusing the prayer of the petitioner/plaintiff/appellant to restrain the Opp. Parties from selling/alienating the suit properties in favour of any person, as, the lis pendens purchasers would be bound by the final decision made in the 2<sup>nd</sup> Appeal vide R.S.A. No.170/2019.*

**8.** As such, this I.A. vide I.A. No.1717 of 2025 filed by the petitioner is disposed of finally.

**(ANANDA CHANDRA BEHERA)**  
**JUDGE**

*High Court of Orissa, Cuttack  
The 23.03.2026// Rati Ranjan Nayak  
Sr. Stenographer*