



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1001 of 2026

Sri Sanjay Pradhan and others

Petitioners

Represented by Adv. -
Sandipani Nayak

-versus-

Ahalya Sahoo and others

Opposite Parties

Represented by Adv. -

CORAM:

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

ORDER

22.06.2026

Order No.

01. 1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioners. Perused the CMP application as well as the prayer made therein.
3. Learned counsel for the Petitioners-defendants at the outset contended that the defendants in the suit and Opposite Parties in the CMA No.09 of 2024, pending in the court of learned Civil Judge, Jr. Div. Niali have approached this Court by filing the present CMP application under Article 227 of the Constitution of India assailing the manner in which the trial court is proceeding in considering the CMA application No.09 of 2024 which was filed at the instance of the plaintiffs-Opposite Parties for restoration of the suit which was filed for setting aside ex-parte judgment and decree dated 02.04.2014 passed in C.S. No.45 of 2012.
4. Learned counsel for the Petitioners at this stage contended that there exists a delay of about ten years in approaching the Court



by filing CMA No.09 of 2024 on the part of the plaintiffs. He further contended that although such limitation aspect was specifically raised before the learned trial court, however, the learned trial Court has not decided the issue of limitation before entering into the merits of the issue as involved in CMA No.09 of 2024. He further contended that in the CMA the learned trial court is recording evidence of the witnesses. Learned counsel for the Petitioners at this juncture emphatically argued that the question of limitation should have been decided as a standalone issue in the CMA application before adverting to adjudicate other important issues involved in the CMA No.09 of 2024.

5. Considering the submission made by the learned counsel for the Petitioners as well as the factual background of the present case and on a careful analysis of the documents annexed to the CMP application, this Court is of the view that it is the settled principle of law that the question of limitation is to be decided at the threshold whenever the same is a pure question of law. So far the dispute involved in the CMA application is concerned, it appears that the issue of limitation is a mixed question of fact and law. Therefore, evidence is required to be laid, and accordingly, the learned trial Court has rightly not taken up the issue as a preliminary issue or has not decided the same at the threshold. In view of the aforesaid position, this Court deems it proper to dispose of the CMP application by directing the learned trial Court to decide the issue of limitation along with other issues by providing sufficient opportunity to the parties. The learned trial Court shall make every endeavor to consider and dispose of the CMA application as



expeditiously as possible, preferably within a period of three months from the date of communication of a copy of today's order.

6. With the aforesaid observation/direction, the CMP application stands disposed of.

(*Aditya Kumar Mohapatra*)
Judge

S.K. Rout