



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1400 of 2025

1) Pranakrushna Behera

.....

Petitioners

2) Suki Behera

Represented by Adv. -
Khirode Kumar Swain

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Sushil Kumar Behera

Represented by Adv. –

Mr. A. Mohanty, ASC

CORAM:

MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

25.02.2026

Order No.

03.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Parties.
3. Perused the Office Note it appears that notice was issued to the private Opposite Party No.2 vide order dated 25.09.2025 through registered post with AD. Further perusal of Office Note it appears notice was issued by registered post on 29.09.2025. However, AD was received back on 09.10.2025 with an endorsement that “Refused returned to sender”. Thus in view of aforesaid refusal to accept notice by the Opposite Party No.2. Notice on Opposite Party No.2 is treated to be sufficient.
4. Heard learned counsel for the Petitioner. Perused the CMP application as well as the prayer made therein.
5. By filing the present CMP application under Article 227 of the Constitution of India, the Plaintiff-Petitioner has approached this



Court challenging order dated 19.04.2025 passed in C.S. No.332 of 2017 by the learned Civil Judge, Senior Division (L.R.), Jagatsinghpur whereby the petition filed under Order 6 Rule 17 by the Petitioner for amendment of the plaint has been disposed of due to non-prosecution.

6. Learned counsel for the Petitioner at the outset contended that an application was filed on behalf of the Plaintiff under Order 6 Rule 17 seeking amendment of the plaint, the same was posted for hearing on 19.04.2025 however, the conducting counsel for the Plaintiff could not remain present in Court on that day due to some personal inconvenience, the learned trial Court dismissed the application due to non-prosecution.

7. Learned counsel for the State on the other hand objected to the prayer made in the present CMP application. He further submitted that the impugned order reveals that the case is lingering for hearing on the petition under Order 6 Rule 17 filed by the Petitioner-Plaintiff. Since the Petitioner did not appear when the matter was called on 19.04.2025, the learned trial Court has not committed any illegality in dismissing the application due to non-appearance of any counsel from the Plaintiff site. In such view of the matter, learned counsel for the State contended that the learned trial Court has not committed any illegality.

8. Having heard learned counsels appearing for the respective parties, on a careful examination of the documents on record as well as the factual background of the present case. Keeping in view the factual background of the present case, further on a close scrutiny of the impugned order dated 19.04.2025, this Court is of the view that the learned trial Court not committed any illegality in dismissing the



application of the Petitioner under Order 6 Rule 17 of the CPC. However, taking into consideration the fact that the valuable right of the Petitioner under the provisions of CPC is likely to be lost, this Court is of the view that the laches on the part of the Plaintiff and his lawyer can very well be compensated by imposing cost on them at the first instance. Dismissal of the application of the plaintiff is one of the harshest remedy. In such view of the matter, this Court is inclined to set aside order dated 19.04.2025 subject to payment a cost of Rs.1000/- (rupees one thousand) to the Defendants. Further it is directed that on production of a copy of today's order, the learned trial Court shall take up the amendment application under Order 6 Rule 17 of the CPC and shall consider the same strictly in accordance with law by providing opportunity to both sides. Such application shall be disposed of within a period of four weeks on its own merit and in accordance with law. This Court further makes it clear that it has not expressed any opinion on the merits of the application under Order 6 Rule 17 of the CPC which has been dismissed due to default.

9. With the aforesaid observation, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge