



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMAPL No.321 of 2025

CNR No. ODHC010621492025

Prahallad Mohapatra

.....

Petitioner

Represented by Adv. -
M/s. Manoranjan
Mishra, R.B. Sinha,
S.R. Rana

-versus-

***Smt. Kanchan Mohapatra
and others***

.....

Opposite Parties

Represented by Adv. -
Mamata Mishra, S.
Pradhan, L. Mohanty

CORAM:

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

ORDER

05.08.2026

Order No.

04.

I.A. No.453 of 2025

1. This matter is taken up through Hybrid mode.
2. This is an application with a prayer for condonation of delay in filing the above noted CMAPL application.
3. Learned counsel for the Petitioner at the outset contended that the Petitioner, who was the Appellant in RSA No.291 of 2015, has



filed the above noted CMAPL application for restoration of the above noted RSA which was dismissed due to non-prosecution. Learned counsel for the Petitioner at this juncture contended that it was due to the fault of his office that they could not know the date of listing of the matter, as a result of which nobody was present when the matter was called out by the Coordinate Bench. Since none appeared on behalf of the Appellant, the matter has been dismissed due to non-prosecution. He further submitted that the fact of dismissal of the aforesaid appeal due to non-prosecution was not within the knowledge of the Appellant. As a result of which there is some delay. However, he further contended that such delay cannot take away the substantive right of the Appellant as involved in the above noted Second Appeal. In such view of the matter, learned counsel for the Petitioner prayer for condonation of the delay in filing the present CMAPL application.

4. Learned counsel appearing for the Opposite Parties on the other hand objected to the condonation of delay on the ground that the delay has not been properly explained. She further submitted that the delay is about one and half years. Therefore, no leniency should be shown while considering such application. On such ground, learned counsel for the Opposite Parties submitted that the application filed by the Petitioner is devoid of merit and the same should be dismissed.

5. Having regard to the submissions made by the learned counsels appearing for both sides, and on a careful examination of the submissions made by the learned counsels for the respective parties, and on a close scrutiny of the grounds taken in the I.A.



application, this Court is inclined to condone the delay in filing the present CMAPL application, subject to the Petitioner paying a cost of Rs.2,000/- to the learned counsel for the Opposite Parties within a week from today.

6. Accordingly, the I.A. stands allowed.

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7. Heard learned counsel for the Petitioner as well as the learned counsel for the Opposite Parties.

8. The present CMAPL application has been filed at the instance of the Petitioner who was the Appellant in RSA No.291 of 2015.

9. Learned counsel for the Petitioner at the outset contended that due to a communication gap none of the counsels could appear before the Coordinate Bench on behalf of the Petitioner on the date when the above noted Second Appeal was taken up for hearing. As a result of which, the Second Appeal has been dismissed due to non-prosecution. He further submitted that unless the Second Appeal is restored to file the Petitioner is likely to suffer irreparable loss as a right relating to a valuable property is involved in the above noted Second Appeal.

10. Learned counsel appearing for the Opposite Parties, on the other hand, objected to the restoration of the Second Appeal on the ground that the Petitioner has not shown any reasonable grounds for restoration of such appeal. On such ground, learned counsel for the Opposite Parties prayed for dismissal of the restoration application.

11. Having heard the learned counsels appearing for both sides,



on a careful examination of the grounds taken as well as the surrounding facts and circumstances, further taking note of the fact that the Second Appeal involves a substantive right of the parties, this Court is inclined to grant the Appellant another opportunity. Hence, the CMAPL stands allowed, the Second Appeal is restored to file. Registry is directed to list the Second Appeal before the appropriate Roaster Bench.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout