



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26225 of 2025

Debasis Mallick

....

Petitioner

Mr. K. Dang, Advocate

-versus-

Sujata Anjali Mallick

....

Opposite Parties

Mr. A.K. Mohanty, Advocate

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER

20.03.2026

I.A. No.23292 of 2025

Order No.

07.

This matter is taken up through hybrid mode.

2. Though this is a disposed of writ petition, this I.A. has been filed by the Opposite Party-Wife to recall the order dated 26.11.2025 and direct the learned Judge, Family Court, Cuttack to act in terms of order dated 03.03.2021 passed by this Court in TRP(C) No.8 of 2020 and to send the record in C.P. No.660 of 2019, along with CMA No.65 of 2021, to the Court of learned Judge, Family Court, Rourkela.

3. An objection has been filed by the Writ Petitioner to the said I.A. detailing therein the reasons to oppose such prayer made in the I.A.

4. A stand has been taken in the said Objection that neither the Writ Petitioner was noticed in TRP(C) No.8 of 2020 nor he has appeared in the said case as has been recorded in the said order dated 03.03.2021 passed in TRP(C) No.8 of 2020 and he had no knowledge regarding



the said order dated 03.03.2021 passed in TRP(C) No.8 of 2020. A contrary stand has been taken in the I.A. that the said order was passed after appearance of the Opposite Party husband and despite communication of order dated 03.03.2021 passed in TRP(C) No.8 of 2020 to the Court of learned Judge, Family Court, Cuttack so also the Writ Petitioner, learned Court below proceeded further and concluded the proceeding in C.P. No.660 of 2019 ex-parte against the Opposite Party-wife.

5. Hence, this Court called for the TCR in C.P. No.660 of 2019 so also passed an order on 12.03.2026 calling for the records in TRP(C) No.8 of 2020 to ascertain the correctness of the submissions made by the learned Counsel for the parties. Paragraph Nos.2 to 6 of the said order dated 12.03.2026, being relevant, are reproduced below.

***“2.** Mr. Dang, learned Counsel for the Petitioner submits, TRP(C) No.08 of 2020 was disposed of without noticing the Petitioner, who was the Opposite Party in the said case. Apart from the same, as directed in TRP(C) No.08 of 2020, the Opposite Party, who was the Petitioner in TRP(C) No.08 of 2020, never communicated the said order dated 03.03.2021 before the Judge, Family Court, Cuttack on time, as a result of which the learned Court below set the Opposite Party ex-parte on 08.04.2021 and ultimately passed an ex-parte judgment in C.P.No.660 of 2019 on 13.05.2021. Much after filing of CMA No.65 of 2021 for setting aside the said ex-parte judgment, on 24.11.2021, she filed the said order dated 03.03.2021 passed in TRP(C) No.08 of 2020 before the Judge, Family Court, Cuttack along with a Memo.*

***3.** Per contra, Mr. Mohanty, learned Counsel for the Opposite Party-wife submits, even though his client did not produce the said order dated*



03.03.2021 passed in TRP(C) No.08 of 2020 before the Judge, Family Court, Cuttack, but as directed, his client filed requisites before this Court, pursuant to which Registry communicated the said order to the present Petitioner, who was the Opposite Party in TRP(C) No.08 of 2020, so also the learned Court below vide Issue Nos. 2730/2021 and 2729/2021, dated 26.03.2021 and 07.04.2021 respectively.

4. In view of such submissions of the learned Counsel for the parties, Office is directed to examine the records in TRP(C) No.08 of 2020 and give appropriate noting in the cause list as to whether in the said transfer petition, the Opposite Party-husband, being noticed, appeared before disposal of the said transfer petition on 03.03.2021, if so, the name of the Counsel, who represented the Opposite Party-husband in TRP(C) No.08 of 2020.

5. Office is further directed to keep on record the copies of communications allegedly made to the learned Court below as well as Opposite Party in TRP(C) No.08 of 2020, pursuant to order dated 03.03.2021 passed in TRP(C) No.08 of 2020.

6. The matter be listed on 20th March, 2026 along with records of TRP(C) No.08 of 2020, disposed of on 03.03.2021, for reference.”

(Emphasis supplied)

6. Pursuant to the said order, so far as TRP(C) No.8 of 2020 is concerned, a noting has been given in the cause list that pursuant to Court's order dated 17.03.2020 passed in TRP(C) No.8 of 2020, no notice could be issued to the Opposite Party due to filing of incomplete requisites i.e. without the postal envelope and postal stamps. Further, noting has been given that on verification of record in



TRP(C) No.8 of 2020, it was found that no Counsel has appeared for the Opposite Party till the said case was disposed of on 03.03.2021. Further noting has been given in the cause list that, as directed by the coordinate Bench in TRP(C) No.8 of 2020, though a copy of the order dated 03.03.2021 was communicated to the Opposite Party in TRP(C) No.8 of 2020 (Writ Petitioner in W.P.(C) No.26225 of 2025) through Speed Post with A.D., the same returned unserved with a postal endorsement 'Addressee avoided to take delivery". Hence, this Court is of the view that the writ petitioner was not aware about the order dated 03.03.2021 passed in TRP(C) No.8 of 2020 till filing of CMA No.65 of 2021 by the Opposite Party-wife in C.P.No.660 of 2019 .

7. Though there is a noting in the cause list that letter bearing memo No.2729(2) was successfully delivered on 07.04.2021 to the Court of learned Judge, Family Court, Cuttack, on verification of the TCR in C.P. No.660 of 2019, this Court finds that there is no such mention in the order sheet till 13.05.2021, vide which C.P. No.660 of 2019 was allowed ex-parte and thereafter also till 24.11.2021, on which date the Opposite Party-wife (Applicant in I.A. No.23292 of 2025) filed the said order dated 03.03.2021 passed in TRP(C) No.8 of 2020 in form of a Memo in CMA No.65 of 2021.

8. That apart, it is ascertained from the record that, the coordinate Bench, while disposing of TRP(C) No.8 of 2020, directed the Petitioner (present Opposite Party-wife) to serve a copy of the order dated 03.03.2021 on the learned Judge, Family Court, Cuttack within a period of 7 days, with further observation/direction to the learned Judge,



Family Court, Rourkela to conclude the proceeding in C.P. No.660 of 2019 as expeditiously as possible, preferably within a period of six months from the date of transmission of record. Relevant portion of the said order is reproduced below for ready reference.

“Petitioner is directed to serve a copy of this order on the learned Judge, Family, Cuttack within a period of seven days and on receiving this order, learned Judge, Family Court, Cuttack shall transmit the case records involving C.P. No.660 of 2019 within a period of two weeks thereafter, to the court of learned Judge Family Court, Rourkela for its doing the needful. This Court also directs the learned Judge, Family Court, Rourkela to conclude the proceeding vide C.P. No.660 of 2019 as expeditiously as possible, preferably, within a period of six months from the date of transmission of the records. For transfer of C.P. Proceeding at the instance of the husband to Rourkela, both parties are directed to file their appearance before the learned Judge, Family Court, Rourkela after receipt of the case record on 22.03.2021.”

(Emphasis supplied)

9. Admittedly, the Opposite Party-wife, who is the applicant in the present I.A., did not act in terms of the said observation/direction given by the coordinate Bench in TRP(C) No.8 of 2020. That apart, there is nothing in the TCR to make believe this Court that even though the order dated 03.03.2021 passed in TRP(C) No.8 of 2020 was well within the knowledge of the learned Judge, Family Court, Cuttack, still it proceeded further and concluded the proceeding in C.P. No.660 of 2019 ex-parte against the Opposite Party-wife in the said C.P. (present Applicant).



10. Further, the Opposite Party-wife has filed CMA No.65 of 2021 before the learned Judge, Family Court, Cuttack for setting aside the ex-parte judgment and decree of divorce passed in C.P. No.660 of 2019.

11. This Court, while disposing of the writ petition vide judgment dated 26.11.2025, passed a detailed and reasoned order vide which, the learned Court below was directed to dispose of CMA No.65 of 2021 (arising out of C.P. No.660 of 2019) in accordance with law at the earliest, preferably, within a period of two months from the date of production of certified copy of the said judgment.

12. Mr. Mohanty, learned Counsel for the Opposite Party-wife (Applicant in the I.A.) argues before this Court that after passing of order dated 03.03.2021 passed in TRP(C) No.8 of 2020, the learned Judge, Family Court became functus officio. Hence, he is incompetent to hear CMA No.65 of 2021. He further submits, after knowing about the said order dated 03.03.2021 passed in TRP(C) No.8 of 2020, the learned Judge, Family Court, Rourkela should not have returned the record to the learned Judge, Family Court, Cuttack and should have taken up CMA No.65 of 2021 for hearing, vide which a prayer has been made for setting aside the ex-parte judgment passed in C.P. No.660 of 2019, and should have proceeded further on merit in C.P. No.660 of 2019, after allowing the said CMA preferred by the Applicant (Opposite Party-wife).

13. Per contra, Mr. Dang, learned Counsel for the Writ Petitioner submits that the Opposite Party-wife (Applicant in the I.A.) did not communicate the said order dated 03.03.2021 passed in TRP(C) No.8 of 2020 to the Court



below. Further his client was not aware about the order passed by this Court. That apart, drawing attention of this Court to order dated 17.03.2020 passed in TRP(C) No.8 of 2020, Mr. Dang further submits, though vide the said order, this Court directed for issuance of notice to his client with a further direction to file requisites within three days, as is revealed from the record, the present Opposite Party-wife (applicant in the IA), who was the Petitioner in TRP(C) No.8 of 2020, filed incomplete requisites much thereafter i.e. on 08.11.2021, that to without postal envelope and postal stamps, for which no notice could be issued to his client, who was Opposite Party in TRP(C) No.8 of 2020. Hence, the allegation in the I.A. that order passed in the Transfer Petition was well within the knowledge of his client is incorrect. Mr. Dang further submits, the Opposite Party-wife (Applicant in the I.A.) has rightly moved the CMA before the learned Judge, Family Court, Cuttack for setting aside the ex-parte judgment passed in C.P. No.660 of 2019. Only on consideration of CMA, if the ex-parte judgment passed in C.P. No.660 of 2019 is set aside, thereafter only the records in C.P. No.660 of 2019 can be transmitted to the Court of learned Judge, Family Court, Rourkela in terms of order dated 03.03.2021 passed in TRP(C) No.8 of 2020.

14. Taking note of the admitted facts on record so also submissions made by the learned Counsel for the parties and the conduct of the parties in the previous proceedings, as detailed above, this Court is of the view that only after disposal of CMA No.65 of 2021 by the learned Judge, Family Court, Cuttack, which Court has passed the ex-



parte judgment in C.P. No.660 of 2019 and if it is so allowed, the records are to be transmitted to the learned Judge, Family Court, Rourkela in terms of order dated 03.03.2021 passed in TRP(C) No.8 of 2020 and the judgment passed by this Court in W.P.(C) No.26225 of 2025 need not be recalled, as has been prayed in the I.A.

15. At this stage, learned Counsel for the Opposite Party-wife (Applicant in the I.A.) submits, the Opposite Party, being a deserted lady, having a minor son, is at present residing with her father at Rourkela, who is a retired employee and is suffering from various old age ailments. It would be difficult on her part to attend the day-to-day proceeding in CMA No.65 of 2021 before the learned Judge, Family Court, Cuttack.

16. Mr. Mohanty further submits, in view of the direction given by this Court in the writ petition, the learned Judge, Family Court, Cuttack is proceeding hastily. Apart from that the learned Judge, Family Court, Cuttack is insisting her to appear physically in the day-to-day proceeding in CMA No.65 of 2021. Accordingly, Mr. Mohanty orally prays for a direction to the learned Judge, Family Court, Cuttack to allow her to appear through virtual mode till disposal of CMA No.65 of 2021.

17. Considering the submission made by Mr. Mohanty, learned Counsel for the Opposite Party-wife (Applicant in the I.A.), the learned Judge, Family Court, Cuttack is requested to explore the facilities of Video Conferencing available in the said Court and permit the Opposite Party-wife to appear before him through virtual mode following due procedure, as prescribed under the Orissa High Court



Video Conferencing for Courts Rules, 2020. That apart, she may also seek necessary legal assistance of any lawyer of the local Bar Association at Rourkela to guide her for conducting the case through virtual mode.

18. It is made clear that in view of the pendency of this I.A. and interim order passed by this court to adjourn the proceeding, the time granted vide judgment dated 26.11.2025 for conclusion of proceeding in CMA No.65 of 2021 (arising out of C.P. No.660 of 2019) is extended till 31st May, 2026.

19. Accordingly, the I.A. stands disposed of.

20. Registry is directed to communicate a copy of this order urgently to the learned Judge, Family Court, Cuttack for information and necessary action.

21. Urgent certified copy of this order be granted on proper application.

(S.K. Mishra)
Judge

Kanhu

Signature Not Verified

Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 23-Mar-2026 10:36:01