



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMAPL No.354 of 2024

Sridhar Dash

.....

Petitioner

Represented by Adv. - P.
V. Balakrishna

-versus-

1) State Of Odisha

.....

Opposite Parties

- 2) The Tahasildar, G.Udayagiri
- 3) Dr. Mangala Charana Dash
- 4) Hemalata Dash
- 5) Rajalaxmi Dash @ Palo
- 6) Bishnupriya Dash@ Panigrahi

Represented by Adv. –
Mr. S. Nayak, ASC
Mr. Gouri Kumar Rath,
(For the Opposite Party
No.5)

CORAM:

MR. JUSTICE ANANDA CHANDRA BEHERA

ORDER

05.05.2026

Order No.

05. 1. This matter is taken up through hybrid mode.
2. Learned counsel for the petitioner and learned counsel for the Opposite Party No.5 are present.
3. None is present on behalf of the other Opposite Parties.
4. Order passed on dated 04.05.2026 in I.A. No.423 of 2024 regarding payment of Rs.25,000/-(rupees twenty-five thousand) by the petitioner to the contesting defendant no.5(Opposite Party No.5 in this CMAPL) has already been complied. The memo filed to that effect in Court is accepted and be formed a part of the record.
5. Learned counsel for the Opposite Party No.5 admitted about the receiving of such cost of Rs.25,000/-



(rupees twenty-five thousand) from the learned counsel for the petitioner.

6. Therefore, this CMAPL is taken up for hearing.

7. Heard the learned counsel for the petitioner and the learned counsel for the Opposite Party No.5.

8. This CMAPL filed by the petitioner (who was the appellant in RSA No.317 of 2009), praying for restoration of the 2nd appeal vide RSA No.317 of 2009, which was dismissed for non-removal of defects shown by the Registry.

9. When, the 2nd appeal vide RSA No.317 of 2009 was dismissed prior to its admission only for the non-removal of the defects and when, the appellant in RSA No.317 of 2009 being the petitioner in this CMAPL is eagerly interested for the fair hearing of the 2nd appeal vide RSA No.317 of 2009 and when, it has been clarified by the Apex Court in the ratio of the decision reported in **2007 Vol-10 SCC-82 : Sumiti Bai and others vrs. Paras Finance Co. and others.**

“The Civil Procedure Code is really rules of natural justice, which are set out in great and elaborate detail. Its purpose is to enable both parties to get hearing”

and in this case at hand, when both the parties are interested for hearing of the 2nd appeal vide RSA No.317 of 2009, (which has been dismissed for default of the appellant on dated 26.04.2019) and when the



object of the C.P.C. is to enable both the parties to get a hearing on merit, for no other reason, but, in order to void the multiplicity of litigations between the parties, then, by taking the above propositions of law into account, I found no justification to disallow the CMAPL filed on behalf of the petitioner under Order-41, Rule-19 of the C.P.C., 1908.

10. Hence, this CMAPL filed by the petitioner is allowed.

11. The order of dismissal of the 2nd appeal vide RSA No.317 of 2009 passed on dated 26.04.2019 is set aside.

12. Due to setting aside of the dismissal order dated 26.04.2019 passed in RSA No.317 of 2009, the 2nd appeal is to be relegated to the position, as it was prior to its dismissal on dated 26.04.2019.

13. As such, this CMAPL is disposed of finally.

(ANANDA CHANDRA BEHERA)
Judge

RSA No.317 of 2009

06. 1. Due to final order passed in CMAPL No.354 of 2024, this 2nd appeal vide RSA No.317 of 2009 be placed before the Registry for taking steps relating to the removal of defects directing the appellant.

Signature Not Verified

Digitally Signed
Signed by: JAGABANDHU BEHERA
Designation: Personal Assistant
Reason: Authentication
Location: OHC, CUTTACK
Date: 05-May-2024



(ANANDA CHANDRA BEHERA)
Judge