



**IN THE HIGH COURT OF ORISSA AT CUTTACK  
CMAPL NO. 286 OF 2025**

***Shiva Narayan Rahana and another* .... *Petitioner***

Mr. Abhas Mohanty, Advocate

*-versus-*

***State of Odisha and others* .... *Opposite Parties***

Mr. Swayambhu Mishra,  
Additional Standing Counsel

**CORAM:  
JUSTICE K.R. MOHAPATRA  
JUSTICE SAVITRI RATHO**

**ORDER  
08.12.2025**

**Order No.**

03. **I.A. No. 516 of 2025**

1. This matter is taken up through hybrid mode.
2. This is an application for condonation of delay of 2708 days in filing the CMAPL.
3. Mr. Mohanty, learned counsel for the Petitioners submits that during pendency of the writ petition, the writ Petitioner - Laxman Rahana died on 30<sup>th</sup> January, 2018. The death certificate as well as legal heir certificate of Laxman Rahana is enclosed to the CMAPL. The writ petition was dismissed for non-prosecution on 28<sup>th</sup> March, 2018. Thus, the order sought to be recalled was passed against a dead person and is a nullity. The Petitioners, who are the legal heirs of said Laxman Rahana had no occasion to know about the pendency or dismissal of the writ petition earlier. Only after receiving notice in the encroachment case, the Petitioners inquired about the matter and came across a copy of the interim order passed in OJC No.



13549 of 2000. From the said copy, the Petitioner made further inquiry and came to know that the writ petition was already dismissed on 28<sup>th</sup> March, 2018. Thus, Mr. Mohanty, learned counsel for the Petitioner prayed for condonation of delay and to take up CMAPL on its own merit.

5. Mr. Mishra, learned Additional Standing Counsel submits that delay in filing the CMAPL has not been properly explained in the I.A. Evasive statements have been made in the petition for condonation of delay without any detailed particulars. Thus, delay of more than 7 years should not be condoned. He submits that an objection will be filed in the CMAPL.

6. Taking note of the submission made by learned counsel for the Parties, this Court finds that OJC No. 13549 of 2000 was dismissed on 28<sup>th</sup> March, 2018 for non-prosecution. But the Petitioner therein had died prior to the said date, i.e. on 30<sup>th</sup> January, 2018. Thus, the order of dismissal of the writ petition was passed against a dead person and is a nullity. The Petitioners, who are the legal heirs being not party to the writ petition had no occasion to know about the filing of the writ petition. Thus, the delay in filing the CMAPL appears to be bonafide and not intentional.

7. Accordingly, delay in filing the CMAPL is condoned subject to the payment of cost of Rs.2000/- to the Welfare Fund of the High Court Bar Association within a period of 7 days.

8. The I.A. is disposed of.



Urgent certified copy of the order shall be granted on proper application.

*(K.R. Mohapatra)*

*Judge*

*(Savitri Ratho)*

*Judge*

04. **CMAPL No. 286 of 2025**

1. Mr. Mishra, learned Additional Standing Counsel submits that objection to the CMAPL shall be filed by 9<sup>th</sup> December, 2025, serving copy thereof on learned counsel for the Petitioner.

2. Put up this matter on 16<sup>th</sup> January, 2026.

*(K.R. Mohapatra)*

*Judge*

*(Savitri Ratho)*

*Judge*

*Subhalaxmi*