



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.2010 of 2025

Taditbala Pattnaik

.....

Petitioner

Represented by Adv.-
Mr. S.K.Dash

-versus-

Shantilata Pattnaik & Ors.

.....

Opposite Parties

Represented by Adv. –
Mr. A.K. Pattajoshi (for
O.P. Nos.1 to 4)

Mr.Anish Pattanaik (for
O.P. Nos.6 to 12)

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
25.02.2026

Order No.

04.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner as well as learned counsel appearing for the Opposite Parties. Perused the CMP application as well as the prayer made therein.
3. By filing the present CMP application under Article 227 of Constitution of India, the Defendant No.1-Petitioner in the suit has approached this Court challenging the order dated 19.11.2025 passed in C.S. No.72 of 2025 by the learned Civil Judge (Senior Division), Kalahandi, Bhawantipatna whereby the learned trial court has refused to accept the written statement filed by the Defendant No.1-Petitioner on 09.10.2025.



4. Learned counsel for the Defendant No.1-Petitioner at the outset contended that the Opposite Party Nos.1 to 4-Plaintiffs have filed a suit for declaration and permanent injunction against the Defendants in the suit. After receiving the notice in the suit, the Defendants appeared before the learned trial Court and he was supposed to file the written statement by 07.10.2025. However, he could not file the written statement due to absence of some relevant documents and illness of the Defendant-Petitioner. Thereafter, the W.S was filed on 10.11.2025 along with an application under Order 8 Rule 9 for acceptance of such W.S. Such petition for acceptance of the W.S having been rejected by the learned trial Court by order dated 19.11.2025 at Annxure-3, the Petitioner has approached this Court by filing the present CMP application.

5. While assailing the order dated 19.11.2025, learned counsel for the Defendant No.1-Petitioner contended that there was a delay of only 30 days in filing the W.S. While explaining the delay, learned counsel for the Defendant No.1-Petitioner contended that such delay was due to illness of the Defendant No.1-Petitioner as well as non-availability of certain relevant documents for preparation of the written statement. On such ground, learned counsel for the Defendant No.1-Petitioner contended that unless the impugned order dated 19.11.2025 is set aside and the Defendants' W.S is accepted, then they will be deprived upon of the opportunity to file their pleadings in the suit and, eventuality, the same would cause serious prejudice to the Defendants. Accordingly, it was prayed that the impugned order dated 19.11.2025 be set aside.

6. Learned Counsel appearing for the Opposite Parties on the



other hand contended that as per the law the Defendants were supposed to file the W.S within 90 days. Since W.S has not been filed within the aforesaid period, the learned trial Court has not committed any illegality in rejecting their application under Order 8 Rule 9 by virtue of order dated 19.11.2025 at Annexure-3. In view of the aforesaid position, learned counsel for the Opposite Parties contended that the learned trial Court has not committed any illegality in passing order dated 19.11.2025 and, as such, the present application at the instance of the Defendants-Petitioner does not call for any interference with the impugned order.

7. Having regard to the submissions made by the learned counsels appearing for both sides, on a careful examination of the background facts as well as on a close scrutiny of the impugned order dated 19.11.2025, this Court observed that the Petitioner, who happens to be the Defendant No.1 in the suit, filed his written statement 30 days after the statutory date of filing the W.S. In the application filed before the learned trial Court under Order 8 Rule 9, the Defendants have taken a stand that due to illness, the W.S could not be filed within the statutory time period. Accordingly, the aforesaid application was filed with a prayer before the learned trial Court to accept the W.S. On a careful consideration of the grounds taken by the Defendants, this Court is of the view that the learned trial Court should have taken into consideration the grounds taken in the application under Order 8 Rule 9 for acceptance of the W.S. Moreover, the delay of 30 days is not substantial, therefore, the same should have been considered by the learned trial Court. Further, this Court observes that the rejection of such application has caused more delay in the pending suit as the Defendant-



Petitioner was compelled to approach this Court by filing the present CMP application. In view of the aforesaid position, this Court is inclined to set aside the order dated 19.11.2025. Accordingly, the same is hereby set aside subject to the Petitioner paying a cost of Rs.1000/- (Rupees one thousand) to the Opposite Parties in the trial Court. Further, taking into consideration the fact that the suit was at final argument stage, this Court directs the learned trial Court to expedite the suit and the parties are directed not to seek any unnecessary adjournment in the suit and every endeavour shall be made to ensure that the suit is disposed of as expeditiously as possible.

8. With the aforesaid observations/directions, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Suchitra