



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.431 of 2026

Nabakishore Pradhan

.....

Petitioner

Represented by Adv. -
Uma Charan Mishra

-versus-

somanath pradhan

.....

Opposite Party

Represented by Adv. –

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
23.03.2026

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner. Perused the CMP application as well as the prayer made therein.
 3. By filing the present CMP application the Defendant in C.S. No.16 of 2012 has approached this Court with a prayer for direction to take up CMA No.37 of 2019 pending before the learned Civil Judge, Senior Division, Pipili for expeditiously disposal and for a further direction to the Executing Court not to proceed further in Execution Case No.12 of 2018 arising out of the ex-party decree passed in the abovenoted suit.
 4. Learned counsel for the Petitioner at the outset contended that the Petitioner who was a Defendant in abovenoted suit should



not appear on a particular date and therefore they were set ex-party and accordingly an ex-party judgment and decree has been passed by the learned trial Court.

5. Being aggrieved by such ex-party judgment and decree the Defendant-Petitioner has already filed an application bearing CMA No.37 of 2019 for setting aside such ex-party judgment and decree. Learned counsel for the Petitioner further contended that although such application was filed in the year 2019 however the same has not been taken for consideration as of now. He further submitted that in the meanwhile the learned Executing Court proceeding in the Execution Case No.12 of 2018 which arises out of C.S. No.16 of 2012 and the ex-party judgment and decree passed therein by the learned Civil Judge (Senior Division), Pipili. Being aggrieved by order dated 05.02.2025 whereby the learned Civil Judge (Senior Division), Pipili has rejected the prayer of the Petitioner was stay of the execution proceeding on an application filed under Order 21 Rule 26 of the CPC, the Petitioner has approached this Court by filing the present CMP application.

6. On a careful examination of the impugned order dated 05.02.2025 this Court observes that the learned trial Court has passed a speaking and reasoned order while rejecting the prayer of the Petitioner. However, taking into consideration the fact that the CMP application of the Petitioner which was filed in the year 2019 still pending for consideration could not be fair to allow the same to remain pending while the execution case proceeds in the meantime. In view of the aforesaid position, this Court deems it proper to dispose of the present CMP application by directing the learned Civil Judge (Senior Division), Pipili to make every



endeavour to consider and dispose of the CMA No.37 of 2019 as expeditiously as possible, preferably within a period of three months from the date of communication of a copy of today's order. As an interim, it is directed that let them execution proceeding is continued however no final order shall be passed till disposal of the CMA No.37 of 2019 for a period of three months whichever is earlier.

7. With the aforesaid observation and direction, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Sisir