

(2023) 10 OHC CK 0029
In the Orissa High Court
Case No : CMP No. 1163 Of 2023

Gadadhar Parida

APPELLANT

Vs

Prafulla Parida

RESPONDENT

Date of Decision : 09-10-2023

Acts Referred:

Citation : (2023) 10 OHC CK 0029

Hon'ble Judges : K.R. Mohapatra, J

Bench : Single Bench

Advocate : Susanta Kumar Dash

Final Decision : Disposed Of

Judgement

K.R. Mohapatra, J

1. This matter is taken up through hybrid mode.
2. The Petitioner in this CMP seeks to assail the order dated 1st July, 2023 (Annexure-1) passed by learned Civil Judge (Senior Division), Puri in Execution Case No.27 of 2014, whereby due to non-cooperation of the J.Dr, the execution proceeding is dropped for non-prosecution.
3. It is submitted by Mr. Dash, learned counsel for the Petitioner that learned executing Court observing that no step is being taken by the J.Dr for last eight dates, dropped the execution case. It is submitted that for the default of the J.Dr, the Petitioner-D.Hr should not suffer. Hence, he prays for setting aside the impugned order under Annexure-1 and to direct learned executing Court to continue with the execution proceeding in accordance with law.
4. On perusal of the order sheet of the execution case annexed to the CMP as Annexure-1, it prima facie appears that the observation made in the impugned order dated 1st July, 2023 is an inadvertent one. In place of D.Hr, learned executing Court has stated that J.Dr is not taking any step in the matter. However, taking the order into consideration on its face value, this Court is of the

considered opinion that for the lapses of J.Dr, the execution proceeding cannot be dropped for non-prosecution.

5. Accordingly, the impugned order dated 1st July, 2023 under Annexure-1 is set aside and the matter is remitted to learned Civil Judge (Senior Division), Puri to proceed with the execution case in accordance with law.

6. The CMP is accordingly disposed of.

7. Since the CMP is disposed of without issuing notice to the Opposite Party, he is at liberty to seek for variation of this order, if he feels aggrieved.

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

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