



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMAPL No. 650 OF 2022

Yuvaraj Digal and another ***Petitioners***

Mr. Kishore Kumar Jena, Advocate

-versus-

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

Mr. Debashis Tripathy,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA
JUSTICE M.S. RAMAN

ORDER
28.03.2025

Order No.

1. 1. This matter is taken up through hybrid mode.
2. 2. Perused the kind minutes of Hon'ble the Acting Chief Justice at Flag-A assigning the matter to be heard by a Division Bench where Hon'ble Shri Justice M.S. Raman is a member. Hence, the CMAPL is listed before this Bench.
3. 3. This CMAPL has been filed with a prayer to recall the order dated 27th October, 2022 by which W.A. No.752 of 2015 was dismissed for non-prosecution and to restore the W.A. to file.
4. 4. It is submitted by Mr. Jena, learned counsel for the Petitioners that learned counsel for the Appellant in W.A. No.752 of 2015 could not appear due to a cease work called by the Orissa High Court Bar Association. Although learned counsel intimated the Appellant to appear at 9 AM on 27th October, 2022 in person, but he could not remain present when the matter was called. As such, the W.A. went unrepresented and was dismissed for non-prosecution.



5. Mr. Tripathy, learned Additional Government Advocate submits that there is no material available on record to substantiate the submission made by Mr. Jena, learned counsel for the Petitioners to the effect that there was a cease work called by the Orissa High Court Bar Association or learned counsel had intimated the Appellant to remain present in person to prosecute his appeal. Hence, he submits that the CMAPL merits no consideration and is liable to be dismissed.

6. Taking note of the submissions made by learned counsel for the parties and on perusal of the record, it appears that the CMAPL has been filed in time. Further from the record of W.A., it appears that on the previous date, i.e., on 30th April, 2021, none was also present on behalf of the Appellant when the matter was called. However, taking a lenient view in the matter and to provide an opportunity to the Appellant to prosecute the appeal, this Court sets aside the order dated 27th October, 2022 and restores W.A. No.752 of 2015 to file subject to payment of cost of Rs.2,500/- (Rupees two thousand five hundred only) to be paid to the welfare fund of Orissa High Court Bar Association within a period of ten days.

7. Accordingly the CMAPL is disposed of.

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

(K.R. Mohapatra)
Judge

(M.S. Raman)
Judge