

A.F.R.

ORISSA HIGH COURT : CUTTACK

CRP No.50 of 2024

An application under Section 115 of the C.P.C., 1908.

Santosh Patra

...

Petitioner

-VERSUS-

State of Odisha and others

...

Opposite Parties.

Counsel appeared for the parties:

For the Petitioner : Mr. Budhiram Das, Advocate.

For the Opposite Parties : Mr. G. Mohanty, Standing
Counsel (for the State)

P R E S E N T:

HONOURABLE

MR. JUSTICE ANANDA CHANDRA BEHERA

JUDGMENT

Date of hearing : 09.10.2025 / date of judgment : 09.10.2025

A.C. Behera, J. This revision under Section 115 of the C.P.C., 1908 has been filed by the petitioner challenging the impugned order dated 27.09.2024 passed in Execution Case No.04 of 1991 by the learned Civil Judge(Sr. Division), Sonepur, wherein, the Execution Case No.04 of 1991(arising out of the judgment and decree passed in

Money Suit No.76 of 1987) filed by the petitioner was dropped on the ground that, application/petition of the petitioner for execution is not executable, for the reasons that, the DHR has not indicated the exact amount of money to be realized from JDRs, valuation of the two Government vehicles and the valuation of the immovable properties mentioned in the schedule along with other reasons.

2. Heard from the learned counsel for the petitioner and the learned Standing Counsel for the State.

3. It is very fundamental in civil law that, principles of res judicata are not applicable to the execution proceedings.

In case of passing an order to drop the execution proceedings on the ground of any technicality, the JDR is not precluded under law to file a fresh application for execution providing correct particulars for making the execution petition executable.

Because, Order-21 of the C.P.C., 1908 containing 106 Rules in total for execution of decrees and orders is a self-contained and independent Order.

For which, the principles of res judicata available in Section 11 of the Civil Procedure Code are not applicable to the execution proceedings.

The DHR shall not be debarred to get the fruits of the decree only on any technical defect in the application for execution, i.e., for non-furnishing the particulars of the movable and immovable properties. So, as per law, an opportunity is required to be given to the DHR by the court to supply the required particulars of the application for execution to remove the defects therein.

When, the impugned order has been passed by the learned Civil Judge(Sr. Division), Sonapur to drop the Execution Case No.04 1991 without providing any opportunity to the petitioner by the court to supply the required particulars of the properties indicated in the application for execution in compliance with the provisions of Order-21, Rule-11 Sub-clause(2) of the C.P.C. and Appendix(E) No.6, then, at this juncture, the impugned order cannot be sustainable under law. For which, there is no justification under law to disallow this revision filed by the petitioner.

4. Hence, the revision filed by the petitioner is allowed.
5. The impugned order dated 27.09.2024 passed in Execution Case No.04 of 1991 is set aside.

The matter vide Execution Case No.04 of 1991 is remitted back to the learned Civil Judge(Sr. Division), Sonapur.

The learned Civil Judge(Sr. Division), Sonapur is directed to give an opportunity to the petitioner to provide the correct particulars relating to the mode of execution as per the provisions of law envisaged under Order-21, Rule-11 Sub-clause(2) of the C.P.C. and Appendix(E) No.6.

6. As such, this civil revision filed by the petitioner (DHR) is disposed of finally.

7. The parties to this revision are directed to appear before the learned Civil Judge(Sr. Division), Sonapur on dated 22.10.2025 for the purpose of receiving the directions of the learned Civil Judge(Sr. Division), Sonapur as to the further proceedings of Execution Case No.04 of 1991 on the basis of the directions given in this judgment.

(A.C. BEHERA)
Judge

Orissa High Court, Cuttack
The 9th of October, 2025/ Jagabandhu, P.A.