

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.12087 of 2005

Bichitrananda Jena

....

Petitioner(s)

Mr. S.S. Das,
Sr. Adv.

-versus-

Smt. Sanku Krishna Veni & Anr.

....

Opposite Party(s)

Mr. D.P. Mohanty,
Advocate O.P.1
Mr. S. Ghose,
AGA for O.P.2

CORAM:
JUSTICE BISWANATH RATH

ORDER
21.11.2022

I.A.No.14820 of 2022 & W.P.(C) No.12087 of 2005

Order No.

08.

1. This is an application for modification of the order dated 18.10.2022 passed in W.P.(C).No.12087 of 2005.
2. For there is bona fide mistake making the order ineffective, the order dated 18.10.2022 is recalled and after entering into fresh hearing, same is replaced by following:
3. Heard the submissions of learned counsel for the respective parties.
4. This writ petition involves a challenge to the order allowing an application for amendment vide Annexure-8 involving T.S. No.351/2000.

5. Taking this Court to the pleadings Mr. Das, learned Sr. Advocate appearing on behalf of the Petitioner alleged that there has been series of amendment applications at the instance of the Plaintiffs and the Plaintiffs are well calculative in bringing applications after applications on each time when matter was being ready for trial, very conveniently finds, the suit remains pending. Involving the impugned order an allegation is also made to the effect that there is no consideration of relevancy in the amendment and the impugned order is also challenged on the premises of being unreasoned one.

6. Learned counsel for the Opposite Party No.1 taking this Court to the proposed amendment, attempted to satisfy the reasons assigned in the impugned order and submitted that there is no requirement of interference in the impugned order.

7. Considering the rival contentions of the parties, this Court finds, the plaintiff has sought for the following proposed amendment:

“ **Proposed Amendments** ”

- A. In the last sentence of Paragraph No.11 of the plaint, the word “disputed” be substituted by the word “undisputed”.
- B. In the 2nd line of the paragraph No.12 of the plaint, the word “west” be substituted by the word “east”, and the word “Janpath” be deleted.
- C. In the 3rd line of the Paragraph No.12 of the plaint, after the word “road” a (.) be inserted and subsequently the small letter “t” in the word “towards” be substituted by the capital letter “T”, And in between the words “houses” and “their” the words “ i.e. on the western side” be inserted;
- D. In the 4th line of the Paragraph No.12 of the plaint, after the word “supply”, a (.) be inserted and the word “and” be deleted, consequently in the same line the small letter “w” in the word “water” be substituted in the capital letter “W”. “

8. In course of hearing and considering the proposed amendment this Court finds, the amendment so far it relates to paragraph no. ‘A’,

may not prejudice the Petitioner rather it helps the Petitioner-defendant. So far as the proposed amendment at 'B' is concerned, this Court finds, there is clear attempt in taking away the admissions in the plaint in taking away topography of the land already given therein, which is not permissible in the eye of law. Now coming to the 1st part of paragraph no.'C' of the amendment, there this Court finds, there is no difficulty in bringing such amendment. So far as the second part of paragraph no.'C' of the amendment is concerned, this Court finds, it is not permissible in the eye of law, as it is again taking away the admission. So far as the amendment at paragraph no.'D' is concerned, there may not be any difficulty. In the above view of the matter this Court interfering in the impugned order in part, substitutes the order at Annexure-8 thereby allowing the proposed amendment so far it relates to paragraph 'A' and first part of the proposed amendment at paragraph no.'C' bringing full stop after the word 'Road' and also allowing the proposed amendment at para-'D'. In the circumstance, it is directed that the amended plaint be filed on the date of appearance of the parties in the trial court itself i.e. on 3rd November, 2022. As the suit is pending since long, fifteen days' time shall be provided to the defendants to file additional written statement, if any, and all-out attempt shall be made to close the suit at least within six months.

9. I.A. and Writ Petition stand disposed of.

(Biswanath Rath)
Judge