

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17552 of 2010

Nityananda Das & Ors.

....

Petitioner(s)

Mr. D.P. Mohanty,
Advocate

-versus-

Smt. Jyotshnarani Behera & Ors.

....

Opposite Party(s)

None

CORAM:

JUSTICE BISWANATH RATH

ORDER

21.12.2022

Order No.

04.

1. Heard the submission of Mr. Mohanty, learned counsel for Petitioners. In spite of appearance of a set of counsel on behalf of the Opposite Parties, nobody appears at the time of call.

2. Taking this Court to the nature of amendment sought for through the application U/o.6 Rule 17 of C.P.C. and the schedule of amendment available at running page 6 to page 14 at Annexure-1, Mr. Mohanty, learned counsel for Petitioners alleges that through the amendment there is an attempt to bring altogether a new case, new prayer and new documents and in the contingency it becomes the responsibility of the trial court while allowing such application to deal with the amendment specifically and order allowing amendment should have been passed only after finding that the amendments are relevant or irrelevant. Taking this Court to the impugned order Mr. Mohanty, learned counsel for Petitioners attempted to satisfy that there has been no discussion on the relevancy aspect.

3. Considering the submission of Mr. Mohanty, learned counsel for Petitioners and looking to the impugned order, this Court finds, for

the amendment stretching over 12 pages brought in 8 categories involved therein, it becomes the responsibility of the trial court to consider such amendment by making discussion not only on the relevancy aspect but also on the entertainability of any request for amendment therein. In the process this Court finds, there has been mechanical disposal of the amendment application.

In the circumstance, this Court interfering in the impugned order at Annexure-2, sets aside the same and remits the matter to the trial court for reconsideration of the amendment application, but however, with the involvement of the all the parties concerned.

4. The writ petition stands disposed of with the above order.

(Biswanath Rath)
Judge

Ayaskanta Jena

