

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.349 of 2022

Ratha Senapati & Ors.

....

Petitioner(s)

Mr. A.K. Mishra(2),
Advocate

-versus-

Jemamani Senapati & Ors.

....

Opposite Party(s)

CORAM:

JUSTICE BISWANATH RATH

ORDER

06.05.2022

Order No.

01.

1. This C.M.P. involves a challenge to the order allowing the application for amendment at the instance of the Plaintiffs.

2. Bringing to the notice of this Court the pleadings Mr. Mishra, learned counsel for the Petitioners contended that the original suit filed in the year 2009 is for declaration and after so many years an application for amendment has been brought by the plaintiff in spite of the existing facts. Further, taking this Court to the impugned order Mr. Mishra, learned counsel for the Petitioners contended that in the process the plaintiffs are attempting to get the disposal of the suit delay. It is further submitted that for there is particular prayer available for consideration, there is no necessity of bringing such prayer for being considered in the suit.

In the above background of the matter, Mr. Mishra, learned counsel for the Petitioners sought for interference of this Court in the impugned order and setting aside the same.

3. Considering the submission of Mr. Mishra, learned counsel for the Petitioners, on perusal of the amendment application and looking to the proposed amendment, this Court finds, there is mere attempt to bring an additional prayer. This Court observes, in the event the application for amendment is allowed, there is scope for contest by the Petitioners on the ground raised herein. Further since allowing amendment is just to consolidate the suit either in the plaint or in the written statement, this Court leaves the quest aspect open to be decided by the trial court involving the merit involved therein and also with a scope of contest to the parties involved therein.

In the circumstance, this Court finds, the grounds raised to oppose the order allowing the application U/o.6 Rule 17 of C.P.C., are no ground to be entertained. As the Petitioners have scope of contest involving the dispute raised by filing the written statement and also participating in the trial, they may do so. This Court, in the circumstance, finds no substance in the challenge of the Petitioners in the C.M.P. to the order allowing the application for amendment.

4. The C.M.P. stands dismissed.

(Biswanath Rath)
Judge