

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**C.M.P. No.129 of 2016**

*Christian Catholic Church of Berhampur* .... **Petitioner(s)**  
Mr.D.P.Jena, Advocate

-versus-

*State of Odisha & Ors.* .... **Opp.Party(s)**  
Mr.R.P.Mohapatra, AGA

**CORAM:**  
**JUSTICE BISWANATH RATH**

**ORDER**  
**09.05.2022**

**Order No.**  
9

1. Heard learned counsel appearing for the parties.
2. This Civil Miscellaneous Petition involves rejection of an application under Order 6, rule 17 of the Code of Civil Procedure together with an application under Order 1, rule 10 of the Code of Civil Procedure at the instance of the plaintiff in an attempt to bring the development taking place in between at the instance of third party involving also an application under 1, rule 10 of the code of Civil Procedure. Hearing Civil Miscellaneous Petition No.128 of 2016, by order dated 11.05.2022 in disposal of rejection of application under Order 1, rule 10 of the Code of Civil Procedure in the same Board, this Court in disposal of the Civil Miscellaneous Petition No.128 of 2016 has come to conclude there is definite necessity of inclusion of such party and accordingly allowed the Civil Miscellaneous Petition No.128 of 2016 thereby allowing the application under Order 1, rule 10 of the Code of Civil Procedure.
3. Considering the submission involved herein, this Court finds the facts attempted to be brought to the fold of Civil Suit involves certain development involving very same disputed land involving the suit pending. On going through the application under Order 6, rule 17 of the Code of Civil Procedure, particularly, proposed amendment sought to the plaint, this Court finds unless the proposed amendment stands

allowed, there will not only be effective adjudication of the suit again there will be definite leading to multiplicity of litigation. There already involved number of proceedings before the different authority even some orders passed by this Court. In the circumstance, this Court finds, there was absolute valid application at the instance of the plaintiff. At this stage of the matter, this Court looking to the impugned order finds there has been no consideration of the proposed amendment in its own prospective. As this Court finds the proposed amendment is relevant for the purpose of effective adjudication and also lis involved here include such parties, this Court finds there is mechanical disposal of the application under Order 6, rule 17 of the Code of Civil procedure passed by the trial court.

4. In the process, this Court interfering in the impugned order at Annexure-7 so far it relates to application under Order 6, rule 17 of the Code of Civil Procedure sets aside the same thereby allows the amendment application.

5. In the circumstance, this Court further also directs the plaintiff to file amended plaint along with authenticated copy of this order before the trial court within a period of seven days hence. Upon receipt of amended plaint, the defendants shall have liberty to file additional written statement. Considering evidence already commenced, since there will be requirement of further examination and chief as well all the witness already examined, witnesses already examined will also be recalled for the purpose of evidence in chief & cross but however limited to the extent of amendment. Taking into consideration the suffering of the defendants for involving belated amendment application, this Court also imposes cost as against the plaintiff. Considering seven defendants are there including the State, cost of Rs.1,000/- (One thousand) in respect of the State-defendant shall be deposited in the Red Cross Fund of the District Collector, Ganjam and Rs.1,000/- (Rupees one thousand) each to be paid to each of the other defendants all within a period of at least seven days.

5. The Civil Miscellaneous Petition succeeds but with the observation and direction made hereinabove.

***(Biswanath Rath)***  
***Judge***

*Sks*

