

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No. 854 OF 2022

Nihar Ranjan Dash

....

Petitioner

Mr. Lingaraj Sarangi, Advocate

-versus-

Sarangadhar Mahakud and others

....

Opp. Parties

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
16.09.2022

Order No.

- 01.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this CMP seeks to assail the order dated 13th July, 2022 (Annexure-5) passed by learned Civil Judge (Junior Division), Bhubaneswar in C.S. No.924 of 2017, whereby he allowed an application filed by the Plaintiff- Opposite Party No.1 under Order VI Rule 17 C.P.C.
 3. Mr. Sarangi, learned counsel for the Petitioner submits that the Plaintiff- Opposite Party No.1 filed C.S. No.924 of 2017 for permanent injunction simplicitor. After filing of the written statement by the Defendant No.2-Petitioner, a petition for amendment of the plaint was filed by the Plaintiff- Opposite Party No.1 to incorporate the prayer for declaration of right, title and interest over the suit land. It is his submission that by virtue of amendment, the nature of the suit land will be changed. Further, learned trial Court has not assigned any good reason for

allowing the amendment. Hence, the impugned order under Annexure-5 is liable to be set aside.

4. Upon hearing learned counsel for the Petitioner and on perusal of the record, it appears that although the suit has been filed for permanent injunction, but the Defendant No.2-Petitioner filed written statement claiming right, title and interest over the suit land. Hence, the Plaintiff-Opposite Party No.1 filed an application to amend the prayer of the plaint by incorporating the relief for declaration of right, title and interest over the suit land. It further appears that hearing of the suit has not yet commenced. When the Defendant No.2-Petitioner filed his written statement claiming right, title and interest over the suit land, the Plaintiff-Opposite Party No.1 is required to amend the prayer of the plaint by incorporating the relief for declaration of right, title and interest over the suit land and incorporating the foundational pleadings to establish the same. Thus, I find no infirmity in the impugned order under Annexure-5.

5. Accordingly, the CMP being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge