IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P No. 517 of 2024

1. Krishna Kumar alias Krishna Prasad, aged about 65 years, son of Late Barju Ram Halwai, resident of village- Janum Piri, Tola Samadih, P.O. & P.S. Tamar, District- Ranchi, Jharkhand.

2. Munni Devi, aged about 53 years, wife of Late Jagarnath Prasad.

3. Kunal Kumar, aged about 32 years, son of Late Jagarnath Prasad.

4. Balram Prasad, aged about 57 years, son of Late Barju Ram Halwai.

5. Anjana Devi, aged about 73 years widow of Late Pitamber Halwai.

6. Sandeep Kumar, aged about 47 years.

7. Dilip Kumar, aged about 45 years

8. Sunil Kumar, aged about 37 years

9. Anil Kumar, aged about 34 years,

6 to 9 are sons of Late Pitamber Halwai, All are residents of village Janum Piri, Tola Samadih, P.O and P.S. Tamar, District Ranchi (Jharkhand)

-Versus-

1. A-Saraswati Devi wife of late Shiv Charan Mahto
1.B-Raj Kumar Mahto, son of late Shiv Charan Mahto
1.C-Yashoda Devi, wife of Dilip Mahato, daughter of l late Shiv Charan Mahto
1.D-Kokila Devi, daughter of late Shiv Charan Mahto
1-E-Lakhimani Devi, daughter of late Shiv Charan Mahto
1-F-Rajbala Devi, daughter of late Shiv Charan Mahto
1-G-Anita Devi wife of Awani Prasad Mahto, daughter of late late Shiv Charan Mahto, village-Jamudag,P.O. and P.S. Sonahatu, District-Ranchi
2. Sahab Ram Mahto, both sons of Soma Mahto residents of village Janum Piri, Tola Samadih, P.O and P.S. Tamar, District Ranchi (Jharkhand)
3. Prema Nand Singh son of Phani Bhushan Singh Manki, resident of village Janum Piri, Tola Samadih, P.O and P.S. Tamar, District Ranchi (Jharkhand).

..... … Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners :Mr. Rahul Kr. Gupta, Advocate

For the O.P. Nos. 1 and 2 : Mr. Alok Lal, Advocate

12/ 24.09.2026: Notice upon opposite party no.3 has already been effected in the light of order dated 30.06.2025. Further the matter was adjourned however, the opposite party no.3 has chosen not to appear and in

view of that this petition is being heard in absence of opposite party no.3.

2. Heard Mr. Rahul Kr. Gupta, learned counsel for the petitioners and Mr. Alok Lal learned counsel for the substituted legal heirs of opposite party no.1 and original opposite party no.2.

3. This petition has been filed under Article 227 of the Constitution of India for quashing the order dated 02.02.2024 passed by the learned Civil Judge (Junior Division), Ranchi in Misc. Civil Application No. 706 of 2023 arising out of O.S. Case No. 167 of 2021 whereby the learned court has been pleased to reject the petition filed by the plaintiffs/petitioners under the provision of Order VI Rule 17 of the C.P.C.

4. Mr. Rahul Kr. Gupta, learned counsel for the petitioners submits that Original Suit no. 167 of 2021 was instituted by the plaintiffs/petitioners for declaration of the right, title and interest of the plaintiffs over the land described in schedule to the plaint possession of the plaintiffs over the suit land be confirmed and further prayer has been made for a decree for the cost of the suit be passed and a decree for such other relief or reliefs , to which the plaintiffs may be found entitled to be passed. He next submits that defendant nos. 1 and 2 appeared and filed their written statement in the said suit. He submits that thereafter the issues were framed and the plaintiffs/petitioners filed the original documents in the said suit and thereafter the plaintiffs adduced witnesses in support of the statement made in the plaint. He further submits that when the plaintiffs' advocate was preparing evidence on oath of plaintiff no.4 who was to make a statement with regard to the documents filed on behalf of the plaintiffs, he noted that the original hukumnama filed by the plaintiffs is dated 03.04.1938, however, inadvertently the said date has erroneously mentioned as 30.04.1938 in para 3 at page 5 and para 18 at page 12 of the plaint. He submits that in this background a petition under Order VI Rule 17 of

CPC was filed for correction of the said error committed in para 3 at page 5 and para 18 at page 12 has been filed which has been rejected by the learned court for amendment. He next submits that the learned court has not appreciated that the correction of date is necessary at the suit with regard to declaration of right, title and interest of the plaintiffs. He further submits that the learned court has not appreciated the spirit of Order VI Rule 17 of the C.P.C. and erroneously passed the order. According to him the Courts shall be liberal in allowing the amendment petition for just decision of the suit however, the learned court has rejected the petition. On these grounds, he submits that the impugned order may kindly be set aside.

5. Mr. Alok Lal, learned counsel for the substituted legal heirs and successors of opposite party no. 1 and original opposite party no.2 vehemently opposes the prayer and submits that entire nature of the suit will change if the said amendment is allowed and in view of that the learned court has rightly passed the order. He submits that at the belated stage the said petition has been filed and even admission has been made by the P.W.4 in cross examination of the date of the said hukumnama and that fact has come in favour of the defendant and by way of filing the said petition the admission made before the learned court has been tried to be withdrawn and in view of that the learned court has rightly passed the order. He submits that this petition may kindly be dismissed.

6. In view of above submissions of the learned counsel for the parties and going through the impugned order it transpires that the said suit was instituted for declaration of right, title and interest and confirmation of possession on the basis of sada hukumnama dated 30.04.1938 by the plaintiffs and against the defendants. The issues were framed after appearance of the defendant nos. 1 and 2 and the witnesses have been examined by the plaintiffs

including plaintiff no. 8 and thereafter a petition under Order VI Rule 17 of C.P.C has been filed. The learned court has found that in para 11, the defendants have averred about various hukumnama being produced by the plaintiffs. They have specifically mentioned that sada hukumnama dated 03.03.1938 was produced in Survey Appeal No. 95/95 and the present case has been filed for hukumnama dated 30.04.1938. Further, it has come in the order of the learned court that P.W.4 who is plaintiff no. 8 was specifically cross examined on the date of said hukumnama and in paras 50 and 51 of his deposition, he has specifically stated that the present case is based on hukumnama dated 30.04.1938.

7. In the case of ***Life Insurance Corporation of India Versus Sanjeev Builders Private Limited and Another, (2018) 11 SCC 722*** in para -70 (iii) (ii), it has been held that by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side can be allowed.

8. What has been discussed hereinabove, it transpires that the amendment, as sought for, is against the guidelines issued by the Hon'ble Apex Court. The plaintiffs have already admitted the date of hukumnama as 30.04.1938 wherein admission was tried to be withdrawn disclosing the new date of hukumnama as 03.04.1938.

9. It is further well known that the party has to satisfy the Court that he could not have discovered that ground which was pleaded by amendment, in spite of due diligence. Rule 17, undoubtedly, confers power on the Court to amend the pleadings at any stage of the proceedings, however, proviso restricts that power once the trial has commenced, unless the Court is satisfied that there is a reasonable cause for allowing the amendment, normally the court has to reject such request.

10. In view of the facts, reasons and analysis the Court finds that the learned court has rightly passed the impugned order. There is no illegality in the said order. Accordingly, this civil miscellaneous petition is dismissed. Pending I.A, if any, stands dismissed. The learned court shall proceed further in the pending suit in accordance with law.

Dt.24.09.2026 **(Sanjay Kumar Dwivedi, J.)**

*Satyarthi/**A.F.R.***