IN THE HIGH COURT OF JHARKHAND, RANCHI

C.M.P. No. 1048 of 2024

Mahabir Kumhar, aged 73 years, son of late Mahrang Kumhar, r/o Silwai, PO and PS Tatisilwai, Dist. Ranchi, Jharkhand

…… …. .... Petitioner(s)

-- Versus --

1.A.Ganga Sahu

1.B.Maneshwar Sahu, All resident of Village Silwai, PO and PS Tatisilwai, Dist. Ranchi

1.C. Devlal Sahu, All 1A to 1C sons of late Bartu Sahu,

2.Baijnath Mahto, son of late Jagan Mahto, resident of Village Silwai, PO and PS Tatisilwai, Dist. Ranchi

…… ….. .... Opp. Parties /Defs.

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Mr. Birendra Burman, Advocate

For the Opposite Parties:- Mr. D.K. Prasad, Advocate

Mr. Durga Narayan, Advocate

7/24.09.2026 Heard learned counsel for the petitioner and learned counsel for the legal heirs/successors of O.P.No.1 and O.P.Nos.2.

2. This petition has been filed under Article 227 of the

Constitution of India for setting aside the order dated 05.08.2024 passed in O.S. No.62 of 2007 passed by the learned Civil Judge (Junior Division)-XXIV, Ranchi Corresponding to MCA No.383 of 2024 whereby the amendment petition filed by the petitioner under Order VI Rule 17 CPC read with Section 151 of the CPC has been rejected.

3. Mr. Birendra Burman, the learned counsel appearing for the petitioner submits that the petitioner has instituted Original Suit No.62 of 2007 for declaration of right, title, interest and confirmation of possession. He submits that in the said suit, the petitioner has filed a petition being MCA No.383 of 2024 under Order VI Rule 17 of the CPC for amendment in the prayer portion of the plaint, however, the learned court has wrongly rejected the same. He next submits in view of the amendment was necessary and in spite of that, the learned court has rejected the petition. He next submits in view of that, the impugned order may kindly be set aside.

4. On the other hand, the learned counsel for the Opposite parties submits that the learned court has decided the said amendment petition by order dated 05.08.2024 by a cogent and reasoned order. He submits that so far the amendment in the plaint as well as the prayer portion was sought which was not subject matter and thereby entire nature of the suit was tried to be changed by way of amendment. He next submits that the suit was instituted

in the year 2007 and in the year 2009 itself the witnesses have been examined on behalf of the plaintiff, after the said petition was filed in the year 2024. At the argument stage, the said petition was filed and the learned court finding that the entire nature of the suit will be changed, he has rightly passed the order. He next submits that even the land which has been sold by the father of this petitioner in the year 1961 has been sought to be amended and at the belated stage the said petition has been filed under Order VI Rule 17 CPC by the petitioner herein in the year 2024 and the argument of the plaintiff was over and the argument has to be started on behalf of the defendants.

5. It transpires that the suit was instituted in the year 2007 and it has been pointed out that in the year 2009 the witnesses have been examined on behalf of the plaintiff. The amendment was filed in the year, 2024.

6. On perusal of the nature of the amendment, as noted in the impugned order, it transpires that the following amendment have been sought:

> *I. That in Page No 5, after Para 7 new Para 7a be open as "That the said Mahrang Kumhar never sold the land of R.S. Khata No 160, Plot no 597, Aare 37 decimal to the Bartu Sahu by virtue of registered sale deed no 2503 dated 12.04.1961."*
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> *II. That in Page No 5, after Para 7 new Para 7b be open as "That the said Mahrang Kumhar never sold the land of R.S. Khata No 160, Plot no 589, Aare 35 decimal to the Jagan Kumhar by virtue of registered sale deed no*

2502 dated 12.04.1961."

III. That in Page No 5, after Para 7 new Para 7c be open as "That the said Mahrang Kumhar never sold the land of R.S. Khata No 160, Plot no 625, Aare 30 decimal to the Baijnath Kumhar son of Jagan Kumhar by virtue of registered sale deed no 9071 dated 22.12.1980. "

IV. In Page No 6, relief portion A new para A-1 & A-2 open and read as follows –

A-1 Be it declared that registered sale deed no.-2503, dated- 12.04.1961 executed by Mahrang Kumhar in favour of the Bartu Sahu is ab-initio void, illegal and the same is not binding upon the Plaintiff.

A-2 Be it declared that Mutation case no 74 R 27 1993-94 is ab- initio void, illegal and the same is not binding upon the Plaintiff.

V. In Page No 6, relief portion A new para A-3 & A-4 open and read as follows-

A-1 Be it declared that registered sale deed no.-2502, dated-12.04.1961 executed by Mahrang Kumhar in favour of the Jagan Kumhar is ab-initio void, illegal and the same is not binding upon the Plaintiff.

A-2 Be it declared that Mutation case no 209 R 27/1987-88 is ab- initio void, illegal and the same is not binding upon the Plaintiff."

7. In view of above, the amendment which has been sought by the petitioner, it is crystal clear that the entire nature of the suit is tried to be changed by way of said amendment which is contrary to law. The Order VI Rule 17 CPC clearly provides that no application for amendment should be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not raise the matter before the

commencement of the trial and even due diligence has not been shown by the petitioner herein and further the amendment was sought in the plaint as well as in the prayer portion and the nature of the amendment, if allowed, it will change the nature of the suit.

8. However, the Courts are very liberal in allowing the amendment petition if it is within the spirit of Order VI Rule 17 of the CPC, however, there are parameters of allowing the said amendment and due diligence is not shown and the entire nature of the suit is tried to be changed by way of such amendment and the learned court has rightly passed the said order, no case of interference is made out and as such, this petition being C.M.P. No. 1048 of 2024 is, hereby, dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated : 24.09.2026
SI/ **A.F.R.**
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