IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1265 of 2026
CNR No. ODHC010549332026

Sanjeev Kumar Mishra & Anr. ..... ***Petitioners***

Represented by Adv. - Dwarika Prasad Mohanty

-versus-

Surendra Mandal & Anr. ..... ***Opposite Parties***

Represented by Adv. -

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
27.10.2026

Order No.

01. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel for the Petitioners. Perused the CMP application as well as the prayer made therein.

3. By filing the present CMP application, the defendants in C.S No.195 of 2016 pending in the court of learned Civil Judge (Senior Division), Nilagiri have approached this Court thereby challenging the impugned order dated 10.11.2025 passed by the abovenamed Court on an application filed under Order 6 Rule 17 of the CPC by the plaintiff seeking amendment of the plaint.

4. Learned counsel for the Petitioners, at the outset, contended that the Opposite Parties, as plaintiffs, initially filed a suit for partition and permanent injunction. During the pendency of the suit

before the commencement of the trial, the plaintiffs moved an application under Order 6 Rule 17 of the CPC with a prayer to delete some of the properties which were included in the suit scheduled plain. Learned counsel for the Petitioners, at this juncture, contended that although such properties belong to the joint family, however, by virtue of the amendment sought for by the plaintiffs such joint family properties have been taken out of the common suit. Being aggrieved by such order, the defendants have approached this Court by filing the present application under Article 227 of the Constitution of India.

5. On a careful analysis of the submissions made by learned counsel for the Petitioners, further on a close scrutiny of the impugned order dated 10.11.2025 passed in the abovenoted suit, this Court found that the application of the plaintiffs under Order 6 Rule 17 of the CPC with a prayer for amendment has been allowed by the learned trial court. On perusal of the record, it appears that the trial has not yet commenced. In such view of the matter, this Court is of the view that the learned trial court has not committed any illegality in allowing such amendment prayed for by the plaintiffs before commencement of the trial. Further, taking into consideration the grievance of the defendants that some of the joint family properties have been removed from the common suit by way of this amendment, the present application is being disposed of by granting liberty to the Petitioners to file an Additional Written Statement along with counter claim, if any, within a period of four weeks from today. In the event any such Additional Written Statement along with counter claim is filed, the same shall be considered by the learned trial court strictly in accordance with

law.

6. With the aforesaid observations/ directions, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified
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Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Oct-2026 18:49:27