IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.1864 of 2026
CNR No. ODHC010837022026

Pankajini Jena and another ..... Petitioners

Represented by Adv.
- Biswajit Mohapatra

-versus-

KARUNAKAR JENA (DEAD) ..... Opposite Parties and others

Represented by Adv.
-

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
04.11.2026

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

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

3. By filing the present CMP application, the Plaintiff in C.S. No.986 of 2017 pending in the Court of learned Civil Judge, Additional Senior Judge-II, Balasore has approached this Court thereby challenging the impugned order dated 07.09.2026.

4. By virtue of the impugned order dated 07.09.2026, the learned Court has partly allowed the application of the Plaintiff-Petitioner filed under Order 6 Rule 17 read with Order 1 Rule 10 of the CPC. Learned counsel for the Petitioner, at the outset, contended that initially the

Plaintiff filed the suit for declaration and partition along with other consequential reliefs. While the examination of a witness was going on the present application under Order 6 Rule 17 read with Order 1 Rule 10 of the CPC was filed at the instance of the Plaintiff to bring on record certain subsequent development and to add a necessary party. The learned trial Court, after providing opportunity of hearing to both sides by virtue of the detailed order dated 07.09.2026, allowed some of the amendments prayed for by the Plaintiff. However, the proposed amendment at Sl. Nos.3, 5 and 8 were not allowed on the ground that in the event such amendments are allowed, the same will substantially recast the relief claimed in the suit. Moreover, the amendments sought for in such paragraphs relate to the period prior to the filing of the suit, the learned trial Court has also express its dissatisfaction with regard to the satisfaction of the due diligence test required to be complied with by the Plaintiff under the proviso to Order 6 Rule 17 of the CPC. It was also expressed that if such amendments are allowed, the same will enlarge the scope of the suit property from Ac. 0.025 decimals to entire Ac.0.18 decimals.

5. On perusal of the application it appears that no convincing explanation has been given by the Plaintiff for seeking such amendment at such belated stage. In view of the aforesaid analysis of the factual as well as the legal position, this Court is of the view that in the exercise of the power under Article 227 of the Constitution of India, the scope of interference with the impugned order is very limited. This Court found that no case is made out by the Petitioner to interfere with the impugned order passed by the learned trial Court. However, while disposing of the present application without interfering with the impugned order, this Court grants liberty to the Petitioner to lead

evidence on the aforesaid facts if the same is already pleaded and covered by the existing pleadings in the plaint.

6. With the aforesaid observation and direction, the CMP application stands disposed of.

(A.K. Mohapatra)
Judge

Sisir

Signature Not Verified
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Signed by: SISIR KUMAR SETHI
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 06-Nov-2026 11:02:38