IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.1740 of 2025

CNR No. ODHC010768772025

Kuni Nayak ..... ***Petitioner(s)***

Mr. Trilochan Panigrahi, Advocate

-Versus-

Rakesh Kumar Rout & Ors. ..... ***Opposite Party (s)***

Mr. Trilochan Nanda, Advocate

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

10.09.2026

Order No.

03.

1. This matter is taken up through hybrid arrangement.

2. The Petitioner has filed this CMP with a prayer to quash the order dated 22.09.2025 passed by the learned Senior Civil Judge, Nimapara in C.S. No.429 of 2023 under Annexure-5.

3. Learned counsel for the Petitioner submits that suit bearing No. 429/23 was registered seeking declaration confirmation and possession and regarding valuation of suit property as per market value though is more than one crore. Defendant No.3/Petitioner moved an application under order 7 Rule 11(b) CPC which was allowed on dated 20.12.2024 by Civil Judge (Sr. Div) Nimapara and aggrieved party preferred revision 2/25 judgment in dismissal as for judgment dated 26.6.2025. But, the learned Trial Court without

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withdrawing the suit on dismissing the same, due to noncompliance of order dated 20.12.2024 by the plaintiff allowed application under order 6 Rule 17 CPC on dated 22.09.25 in a cryptic manner which is perverse.

4. The relevant portion of the said order is extracted hereinbelow: -

> ***"xxx xxxx xxx***
>
> ***Heard the submissions of learned counsel for both sides, perused the record, Including the proposed amendments. Order VI Rule 17 CPC are well settled that no application for amendment shall be allowed after the commencement of trial unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. In the present case, It is not in dispute that the trial has not yet commenced. There Is no written statement on record and issues are yet to be framed. Therefore, the bar under the proviso does not operate strictly in the present circumstances. At the same time, it is equally well settled that an amendment which introduces an entirely new cause of action, fundamentally alters the character of the suit, or is mala fide or intended to prejudice the other party or delay proceedings must not be permitted. It is also found that while some proposed amendments are formal others may affect the nature and scope of the suit. The suit is at a tender stage and for the ends of justice, the plaintiffs***

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should be afforded an opportunity to place all relevant facts before the Court. Accordingly, the petition under Order VI Rule 17 CPC is hereby allowed subject to payment of cost of Rs. 300/-.

xxx xxx xxx"

5. Upon hearing the learned counsel for the Petitioner and on going through the documents available on record, this Court does not find any infirmity in the order dated 22.09.2025 passed by the learned Senior Civil Judge, Nimapara in C.S. No.429 of 2023 under Annexure-5.

6. Accordingly, the CMP stands dismissed.

(Dr. Sanjeeb K Panigrahi)
Judge

Gitanjali

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