



IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.297 of 2026

Ramesh Chandra Das

.....

Petitioner

Represented by Adv. -
Bhawani Sankar
Panigrahi

-versus-

Umesh Chandra Das and others

.....

Opposite Parties

Represented by Adv. -

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

ORDER
23.02.2026

Order No.

- 02.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the plaintiff-Petitioner. Perused the CMP application as well as the prayer made therein.
 3. By filing the present application under Article 227 of the Constitution of India, the plaintiff has approached this Court challenging order dated 05.01.2026 passed in C.S. No.124 of 2023 by the learned Senior Civil Judge, Baripada, thereby rejecting the application of the plaintiff filed under Order 6 Rule 17 of the C.P.C. seeking amendment of the plaint.
 4. Learned counsel for the Petitioner at the outset contended that the plaintiff-Petitioner initially filed a suit for partition. However, at a subsequent stage, i.e. before commencement of the trial the plaintiff realized that he has left out some of the parties who are co-sharers and that some properties have also been left out from the plaint schedule inadvertently. Accordingly, he wanted to amend the



plaint and to bring on record all the co-sharers and to include the entire joint family properties and an application was filed under Order 6 Rule 17 seeking amendment to the plaint. He further alleged that by virtue of the application for amendment, the nature and character of the suit is not likely to be changed as the plaintiff wanted to bring on record all the co-sharers and the entire property belonging to the joint family. Thus, it was emphatically argued that the same will never change the nature and character of the suit. He further submitted that by virtue of the impugned order dated 05.01.2026 at Annexure-3 the learned trial Court without discussing the nature of the amendment sought for and without realizing that the suit is for partition of joint family property in which all the co-sharers are required to be brought on record as well as the entire property belonging to the joint family, passed the rejection order on the ground that in the event the amendment is allowed, the same will change the nature and character of the suit and that the same would amount to altering the entire facts of the plaint.

5. Being aggrieved by such rejection of his application under Order 6 Rule 17, the Petitioner being seriously aggrieved by such order has approached this Court with a prayer for setting aside the impugned order dated 05.01.2026. Learned counsel for the Petitioner at this stage contended that since the amendments which have been sought for are formal and clarificatory in nature and that the same would assist the court to decide the dispute between the parties in the current partition suit, learned counsel for the Petitioner sought for liberty of this Court to withdraw the present application to move an application before the learned trial Court seeking withdrawal of the suit with liberty to file a better suit.



6. In view of the aforesaid position, the present application is being disposed of as withdrawn by granting liberty to the Petitioner to move an application before the learned trial Court under Order 23(1)(3)(b) Rule 1 of C.P.C. In the event any such application is filed within two weeks from today by the plaintiff, the learned trial Court shall consider the same in accordance with law and pass necessary consequential order thereon keeping in view the observations made hereinabove.

7. With the aforesaid observation/direction, the CMP application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout