

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9617 of 2023

**Vedanta Ltd., through its General Counsel (Aluminium & Power),
Kalahandi** **Petitioner**

Represented by Adv.–
Mr. Vikas Singh, Senior Advocate
Mr. Dhruv Mehta, Senior Advocate
Ms. Deepika, Advocate
Mr. Udayan Verma, Advocate
Mr. Anubhav Ray, Advocate
Mr. Satya Smriti Mobanty, Advocate
Mr. Prashanta Kumar Nayak, Advocate

-Versus-

**Odisha Mining Corporation Ltd.
and others** **Opposite Parties**

Represented by Adv.–
Mr. Raj Kumar Mehta, Senior Advocate
Mr. E.P. Singh, Advocate
Mr. Pravat Kumar Muduli, Advocate for O.P. No. 1
Mr. Saswat Das, A.G.A. for O.P. No.2
Mr. Prasanna Kumar Parhi, DSGI
Mr. S.S. Kashyap, CGC for O.P. No.3

CORAM:
HON' BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN



ORDER
03.12.2025

Order No.

15. **I.A. No.20687 of 2025**

1. This is an application for amendment of the writ petition to incorporate additional grounds as well as additional relief in the writ petition.

2. It is averred in the instant amendment application that the necessary pleadings are in existence in the writ petition and, therefore, the relief in commensurate with the same was not initially incorporated in the writ petition and, therefore, such additional prayers may be permitted to be brought by way of an amendment. Apart from the same, the challenge to the action of the authorities are also adumbrated in the relevant paragraphs containing the grounds and amendment is sought to be allowed to add the further grounds in order to effectuate the complete adjudication of the disputes involved in the writ petition.

3. Before we proceed to decide the application for amendment, it would be axiomatic to recapitulate the principles of law relating to the amendment of the pleadings by the party. Order VI, Rule 17 of the Code of Civil Procedure postulates that the party to the



proceedings may be permitted to amend their pleadings at any stage of the proceedings provided such amendment is necessary for complete and effective adjudication of the issues and/or dispute involved therein. Since the advent of its incorporation in the processual law, a consistent view was taken by the Courts that the Court must consider the same by adopting a liberal approach subject to the exceptions carved out in this regard.

3.1. The Court shall permit the party to amend the pleadings provided it does not change the basic character of the proceeding, causing prejudice to the other side, manifestly barred by limitation, altering the cause of action initially pleaded, above all the same is *mala fide*. The provision relating to the amendment was subsequently being misused as the amendments were sought at the fag end of the proceedings with an intent to delay the disposal thereof and keeping in mind, the Malimath Committee while recommending the amendment in the year 1999, proposed to delete the said provision from the Code of Civil Procedure. There has been severe discourse across the country after the deletion of the provision relating to the amendment which invited further recommendations in the year 2002 for reintroduction of the said provision into the Code of Civil Procedure. By inserting a proviso, the provision of Order VI, Rule 17



carves out situation for amendment of that pleading after the commencement of trial subject however to the satisfaction of the Court that despite due diligence, the parties seeking for an amendment could not take out such application before the commencement of trial.

3.2. The necessity of amending the pleadings is not only to avoid the multiplicity of the proceedings, but to ensure a complete and effective adjudication of the disputes and the reliefs to be granted to the parties. The Court should not adopt a pedantic approach in dealing with an application for amendment, but should embark its journey on the periphery of the provisions contained under Order VI, Rule 17 of the Code of Civil Procedure, more particularly, the same is necessary for complete and effective adjudication of the disputes. Any attempt taking a circuitous route of an amendment if intended to withdraw an admission should be nipped in the bud with a rider that the party may be permitted to amend explaining the admission made in the said pleadings. The moment the Court finds that the amendment would bring a new case completely foreign to the initial cause of action or eclipsing the original cause of action, the Court may refuse the party to amend the pleadings.



3.3. The enabling provisions contained under Order VI, Rule 17 of the Code of Civil Procedure can be dissected in two parts, the first part relates to discretion of the Court to permit the parties to amend the pleadings. On the other hand, it makes it mandatory to permit the party to amend, if the same is necessary for a complete adjudication of the disputes involved therein. It is a satisfaction of the Court whether such amendment is necessary within the folds of the said provision and once a satisfaction is reached, it is imperative to permit the parties to amend its pleadings. The party shall not be permitted to amend the pleadings seeking a relief which is apparently barred by limitation, but if the plea of limitation is debatable and dependent upon the other factors including the evidence to be laid thereupon, it should permit the party to incorporate such reliefs, keeping the point of limitation open to be decided at the time of final disposal of the proceeding. Ordinarily the amendment allowed by the Court relates back to the date of the institution of the proceeding as if the said pleading existed on the date of the presentation of a plaint, but there is no fetter on the part of the Court to restrict the amendment from a particular date by activating the doctrine of relation back. The Court should be liberal when the relief in the form of a prayer is brought by way of an amendment, more particularly, when the material facts



have already been pleaded at the time of the initiation of the said proceeding.

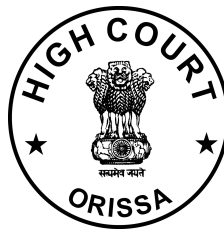
3.4. The importance of incorporating the reliefs in the pleading not only facilitates the adjudication of an issue, but imparting of justice to the parties in a just and proper manner. Mere introduction of a relief in the form of a prayer does not absolve the adversary to argue and convince the Court that such relief is not sustainable nor to be granted and, therefore, it does not cause any greater prejudice or any injury. A simple prayer in commensurate with the facts pleaded in the proceeding neither alter the cause of action nor bring any change thereto as such relief can only be granted on the basis of a pleading upon satisfactorily proved by a cogent and convincing materials. The cause of action is a bundle of fact needs to be pleaded in order to invite the attention of the Court to grant an appropriate relief provided it is proved to the satisfaction of the Court. It cannot be a stray incident, but the Court has to meticulously examine the facts incorporated in the pleading *in extenso* in order to cull out the cause of action. It is a fact which is pleaded takes an integral part of the cause of action and the Court should be cautious when any new facts are sought to be introduced by way of an amendment which at times may tantamount to altering the position or causing a greater prejudice



and injury to the other side. Thus, the cause of action is dependent upon several factors to be specifically incorporated in the pleadings and must duly be verified by the party. The introduction of grounds which is intricately related to a submission may be brought by way of an amendment as it does not constitute an integral part of the cause of action. The challenges can be made on several grounds both on facts and law and it is imperative on the Court to decide the same at the time of a hearing both on the ground of its sustainability and/or legality.

3.5. Mere introduction of an additional ground in pursuit of the final relief without disturbing the fabric of the cause of action may be permitted to be brought in the pleadings and an opportunity is always available to the adversary to meet the same by way of an additional pleading. By way of an amendment, the petitioner intended to introduce the grounds which according to him would render the judgment of the authority unsustainable which cannot be said to be a *mala fide* or tantamount to substitution of the cause of action.

4. We, thus, find that the proposed amendment being Part-A and Part-B appearing in paragraph 42 of the application would not cause any prejudice nor an injury and, therefore, we allow the application



for amendment. The petitioner is directed to file an amended writ petition within the time provided under Order VI, Rule 18 of the Code of Civil Procedure.

5. The copy of the amended petition shall be served upon the contesting opposite parties immediately after the filing of the same. The contesting opposite parties are permitted to file an additional counter affidavit to the amended writ petition within two weeks from the date of service of the copy of the amended writ petition; rejoinder, if any, may be filed within a week thereafter.

W.P.(C) No.9617 of 2023

6. List this matter on 12th January, 2026 at 2PM. The interim order, if there be any, shall continue till the next date of listing.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin/PA