



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.1762 of 2025

(In the matter of an application under Article 227 of the Constitution of India)

Pratimarani Patra

...

Petitioner

-versus-

Dillip Hali and others

...

Opposite Parties

Advocate(s) appeared in this case:-

For Petitioner : Mr.T.K.Mishra, Advocate

For Opposite Parties : Mr.A.P.Bose, Advocate

CORAM: JUSTICE B.P. ROUTRAY

JUDGMENT
18th December, 2025

B.P. Routray, J.

1. Present CMP is directed assailing the order dated 15th September 2025 of learned Civil Judge (Jr. Division), Bhubaneswar passed in C.S.No.570 of 2022, wherein the prayer of the plaintiff to amend the plaint at the stage of argument has been allowed.

2. Heard Mr. Mishra, learned counsel for the Petitioner and Mr.Bose, learned counsel for the Opposite Parties.



3. Present Opposite Party No.1 is the plaintiff and he filed the suit praying to declare the Sale Deed bearing No.8996 dated 23rd August 2006 as illegal and not binding, with further prayer to correct the ROR and permanent injunction. The defendant, who is the present Petitioner, contested the suit by filing his written statement. Both parties led their evidence and examined such witnesses on their part. When the matter was posted for argument and after the argument from defendant side is over, the plaintiff filed a petition on 16th September 2025 praying to amend the written statement in order to correct certain figures and names at paragraph 3 & 4 of the plaint.

4. In addition to the same, a new sentence was also sought to be adduced by the plaintiff, which was rejected by the learned trial court and same is not the subject matter before this Court.

5. Law relating to amendment under Order 6 Rule 17 of the CPC have been well settled in catena of decisions of the Hon'ble Supreme Court. In ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another, (2022) 16 SCC 1***, it has been held as follows:-

“71. Our final conclusions may be summed up thus:



71.1. Order 2 Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order 2 Rule 2CPC is, thus, misconceived and hence negatived.

71.2. All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order 6 Rule 17CPC.

71.3. The prayer for amendment is to be allowed:

71.3.1. If the amendment is required for effective and proper adjudication of the controversy between the parties.

71.3.2. To avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment do not seek to withdraw any clear admission made by the party which confers a right on the other side, and

(c) the amendment does not raise a time-barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

71.4. A prayer for amendment is generally required to be allowed unless:

71.4.1. By the amendment, a time-barred claim is sought to be introduced, in which case the fact that the claim would be time-barred becomes a relevant factor for consideration.

71.4.2. The amendment changes the nature of the suit.

71.4.3. The prayer for amendment is mala fide, or



71.4.4. By the amendment, the other side loses a valid defence.

71.5. In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

71.6. Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

71.7. Where the amendment merely sought to introduce an additional or a new approach without introducing a time-barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

71.8. Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

71.9. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

71.10. Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.



71.11. Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See *Vijay Gupta v. Gaginder Kr. Gandhi.*) ”

6. Further, the Hon’ble Supreme Court in ***M. Revanna v. Anjanamma***, (2019) 4 SCC 332, have held that;

“7. Leave to amend may be refused if it introduces a totally different, new and inconsistent case, or challenges the fundamental character of the suit. The proviso to Order 6 Rule 17 CPC virtually prevents an application for amendment of pleadings from being allowed after the trial has commenced, 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 the trial. The proviso, to an extent, curtails absolute discretion to allow amendment at any stage. Therefore, the burden is on the person who seeks an amendment after commencement of the trial to show that in spite of due diligence, such an amendment could not have been sought earlier. There cannot be any dispute that an amendment cannot be claimed as a matter of right, and under all circumstances. Though normally amendments are allowed in the pleadings to avoid



multiplicity of litigation, the court needs to take into consideration whether the application for amendment is bona fide or mala fide and whether the amendment causes such prejudice to the other side which cannot be compensated adequately in terms of money.”

7. Admittedly, the present amendment has been sought by the plaintiff at the stage of argument. In order to appreciate the purpose of the amendment, paragraphs 3 & 4 of the plaint as well as the proposed amendment are reproduced below:

“3. That, the suit land in the sabak R.O.R. stood recorded in the name of Sikhara Jena, Son of Maguni Jena. Sikhara Jena to meet his legal necessity on dt- 18.11.1958 vide R.S.D. No.1199 transferred the suit land in favour of Ratnakara Jena, Son of Sikhara Jena and in pursuance to his delivery possession of the land was also given to said Sikhara Jena.

4. That, Sikhara Jena while was in peaceful possession over the property he too meet his legal necessity vide R.S.D. No.4660 dt.10.5.1969 transferred the suit land in favour of Rangalata Hali, Wife of Hadibandhu Hali. In pursuance to this, delivery possession of the land was also given to Rangalata Hali.”

PROPOSED AMENDMENT

“Substitute the figure 9463 in place of 1199 and the name Ratnakara Jena in place of Sikhar Jena in para-3 of the plaint and also add a new sentence after last sentence of para 3 of the plaint and substitute the name Ratnakar Jena in place of Sikhar Jena in para-4.”



8. As seen from the copy of deposition of P.W.1 & 2, and D.W.1 & 2, RSD bearing No.9463 has been marked as Ext.1 (with objection). Further, RSD No.1199 dated 10th February 1958 has been marked as Ext.B (with objection). Undoubtedly RSD No.9463 is with the name of the vendor Ratnakar Jena as per Ext.1. While arguing their respective cases before the learned trial court, the plaintiff realized the mistake typed in the plaint and therefore, sought for correction of the same by way of amendment as revealed from the schedule of proposed amendment. The learned trial court accepted the same as a typographical mistake and allowed to correct the same, i.e. the number of the Registered Sale Deed as 9463 in place of 1199 and the name of Ratnakar Jena in place of Sikhara Jena. The objection is raised from the side of the defendant that when the plaint was filed and Ext.1 was within the knowledge of the plaintiff, he did not realize the mistake on his part till the matter was argued and therefore at such belated stage the amendment sought for by the plaintiff amount to bringing a new case by the plaintiff. Such submission as contended by the defendant (present Petitioner) before this Court is not found correct. It is for the reason that when RSD No.9463 with the name of the vendor as Ratnakar Jena has already been brought on record vide Ext.1, of course marked with objection from the side of the defendant,



it cannot be said that plaintiff is trying to bring a new case in his favour at the stage of argument. The learned trial court has rightly appreciated the prayer of the plaintiff to correct the number and name as per the sale deed sought for by the plaintiff treating the same as a typographical error. The entire fact as wanted to bring in amendment by the plaintiff, if is examined closely in reference to the earlier pleading available at para 3 & 4 of the plaint, the same never amounts to bring either a new fact or withdrawal of admission or change of nature of the suit.

9. As stated above, both the sale deeds under Ext.1 & Ext.B have since been brought on record, only the formality is left to correct the number of the sale deed and name of the vendor at the instance of the plaintiff. So far as delay part is concerned, it is true that the plaintiff has sought such amendment at the stage of argument. But keeping the nature of amendment sought for in view, which is found more as a typographical mistake, it would be natural to have overlooked until such fact came to the notice of the plaintiff. Moreover, this change in the pleading would not require any fresh evidence or fresh material for adjudication of the dispute and therefore, there would not be any hindrance on the part of the trial court in allowing the amendment as



sought by the plaintiff, particularly keeping in view the fact that Ext.1 and Ext.B have been produced on record.

10. In view of aforesaid discussions and reasons stated, no merit is seen in the challenge of the Petitioner to interfere with the impugned order. The CMP is accordingly rejected.

(B.P. Routray)
Judge