



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.1607 of 2023

(An application under Article 227 of the Constitution of India, 1950)

Sanjulata Sahoo and another* *Petitioners

-versus-

***Satya Prakash Mohanty and* *Opposite Parties*
Others**

Appeared in this case by Hybrid Arrangement

(Virtual/Physical Mode):

***For Petitioners* - Mr. T. K. Mishra,
Advocate.**

***For Opposite Parties* - Mr. M. Mohanty,
Advocate.**

**CORAM:
HON'BLE MR. JUSTICE A.C.BEHERA**

Date of Hearing :20.03.2026 :: Date of Judgment :20.03.2026

A.C. Behera, J. This Civil Miscellaneous Petition under Article 227 of the Constitution of India, 1950 has been filed by the petitioners praying for quashing (setting aside) the impugned order dated 05.08.2023 passed in C.S. No.107 of 2019 by the learned Senior Civil Judge, Jajpur.

2. The factual backgrounds of this CMP, which prompted the petitioners for filing of the same is that, the petitioners being the plaintiffs filed the suit vide C.S. No.107 of 2019 against the O.Ps arraying them (O.Ps) as defendants praying for declaration of their



right, title, interest and possession over the suit properties, to declare that, they (defendants) have no manner of right, title, interest and possession in the suit properties, to declare that, the recording of the name of the defendant No.3 in respect of the suit properties in the Hal R.o.R. is wrong and illegal and to pass a decree for eviction against the defendant Nos.1 & 2 directing them (defendant Nos.1 & 2) to vacate the suit properties and to deliver the possession of the same to the plaintiffs stating in their plaint that, they (plaintiffs) are the successors of Gadadhar Sahoo, being his two daughters. The suit properties were the self-acquired properties of their father Gadadhar Sahoo, but unfortunately, the R.o.R. thereof was prepared alone in the name of the defendant No.3 (Paramananda Sahoo). When the defendant Nos.1 & 2 created disturbances in their possession in the suit properties, then they (plaintiffs) filed the suit vide C.S. No.107 of 2019 against the defendants seeking the above reliefs.

3. Having been noticed from the Trial Court in the suit vide C.S. No.107 of 2019, the defendant Nos.1 & 2 filed their joint written statement taking their stands that, Gadadhar Sahoo, Sadananda Sahoo and Bidyadhar Sahoo being the three sons of Purusottam Sahoo, they were three brothers and while they (three brothers) were living in joint mess and property, they had acquired properties individually.



Gadadhar Sahoo had purchased the suit properties from one Anam Kar through RSD No.6270 dated 28.08.1950. The said Gadadhar Sahoo died leaving behind his two daughters i.e. Sanjulata and Manjulata i.e. plaintiffs as his successors. After the death of Gadadhar Sahoo, his two daughters i.e. plaintiffs along with their uncles i.e. Sadananda Sahoo and Bidyadhar Sahoo were possessing the suit properties as their joint properties. For the marriages of the plaintiffs, their uncles i.e. Sadananda and Bidyadhar sold the suit properties to one Babula Sahoo on dated 09.08.1985. Babula Sahoo sold the same to the defendant No.3 through R.S.D. No.819 dated 08.09.1989. The defendant No.3 sold the suit properties to the defendant Nos.1 & 2. Therefore, they (defendant Nos.1 & 2) are the owners and in possession over the suit properties, in which, the plaintiffs have no interest. For which, the suit of the plaintiffs is liable to be dismissed.

4. After knowing about the above sale deeds in respect of the suit properties in favour of the vendors of the defendant Nos.1 & 2 as well as the defendant Nos.1 & 2, the plaintiffs filed a petition under O.6 R.17 of the CPC, 1908 praying for addition of the reliefs in their suit for the declaration that, the sale deeds in respect of the suit properties in favour of the vendors of the defendant Nos.1 & 2 as well



as defendant Nos.1 & 2 as void and also to amend their plaint relating to their proposed additional prayers.

To which, the defendant Nos.1 & 2 (O.Ps in this CMP) objected stating in their objection that, the proposed additional prayers of the plaintiffs are barred by law of limitation and they (plaintiffs) cannot amend their plaint on the basis of the W.S. of the defendants.

5. After hearing from both the sides, learned Trial Court passed the impugned order on dated 05.08.2023 rejecting the petition for amendment of the plaint of the plaintiffs under O.6 R.17 of the CPC, 1908 assigning the reasons that,

“the plaintiffs cannot amend their plaint for addition of their prayers relating to the declaration that, the sale deeds in favour of the vendors of the defendant Nos.1 & 2 as well as in favour of the defendant Nos.1 & 2 as void only after knowing about the same from the written statement of the defendant Nos.1 & 2.”

6. On being dissatisfied with the above impugned refusal order, the plaintiffs challenged the same by filing this CMP under Article 227 of the Constitution of India, 1950 being the petitioners against the defendants arraying them as O.Ps. praying for quashing the impugned order dated 05.08.2023 passed in C.S. No.107 of 2019 by the learned Senior Civil Judge, Jajpur.



7. I have already heard from the learned counsel for the petitioners (plaintiffs) and learned counsel for the O.P. Nos.1 & 2 (defendant Nos.1 & 2).

8. On the basis of the observations made in the impugned order and the rival submissions of the learned counsels of both the sides, the crux of the CMP is that,

Whether the impugned order of refusal to the proposed amendment sought for by the petitioners (plaintiffs) by the learned Trial Court on the ground that, the petitioners (plaintiffs) can not be allowed to amend their plaint for addition of their prayers to declare that, the sale deeds indicated in the written statement of the defendant Nos.1 & 2 in favour of the vendors as well as the defendant Nos.1 & 2 as void knowing about the same from the written statement of the defendant Nos.1 & 2 is sustainable under law?

9. The aforesaid reasons assigned by the learned Trial Court for the refusal of the prayer for amendment of the plaint of the plaintiffs cannot be acceptable under law.

Because, it is the duty of a good judge to try always to put an end to the litigation, but he should not pass such an order to grow a suit out of a suit.

The main object of the provisions under O.6 R.17 of the CPC, 1908 is to avoid the multiplicity of litigations between the parties.



For which, the Court should always take its best endeavour to try a suit for deciding all the controversies of the parties relating to the said suit in that suit, but not to encourage them to be involved for the same in separate litigations or suits.

10. When the plaintiffs came to know about the sale deeds in favour of the vendors of the defendant Nos.1 & 2 as well as in favour of the defendant Nos.1 & 2 in respect of the suit properties from the written statement of the defendant Nos.1 & 2, then, they (plaintiffs) filed petition under O.6 R.17 of the CPC, 1908 for amendment of their plaint in order to include their additional prayers with their original prayers for the declaration of the said sale deeds in favour of the vendors of the defendant Nos.1 & 2 as well as in favour of the defendant Nos.1 & 2 in respect of the suit properties as void.

11. Therefore, if they (plaintiffs) will not be allowed to amend their plaint for the inclusion of their above additional prayers, then, the controversies between the parties relating to the said prayers of the plaintiffs arising out of the suit shall remain unanswered/unattended, which shall encourage other litigations between them (parties).

During the course of hearing of the CMP, the learned counsel for the O.P. Nos.1 & 2 (defendant Nos.1 & 2) contended that,



the sale deeds in favour of the vendors of the defendant Nos.1 & 2 as well as in favour of the defendant Nos.1 & 2 in respect of the suit properties are much 3 years before the institution of the suit by the plaintiffs and the prayer for amendment has been made by the plaintiffs much 3 years after the execution of the said sale deeds, for which, the above proposed additional prayers of the plaintiffs in respect of the said sale deeds are barred by law of limitation.

12. The aforesaid contentions of the learned counsel for the O.Ps (defendant Nos.1 & 2) can only be answered effectively in the suit, if the issues relating to the said controversies shall be framed by the learned Trial Court along with other issues and the said issues can be answered properly after elicitation of evidence of the parties. For which, the proposed amendment of the plaintiffs shall never cause any prejudice to either parties, rather same will be in furtherance of avoidance of multiplicity of litigations between the parties.

13. As per the discussions and observations made above, when it is held that, the proposed amendment of the plaintiffs shall not cause any prejudice to either parties rather the same will be in furtherance of avoidance of multiplicity of litigations between the parties, then at this juncture, the learned Trial Court should not have refused the prayer for amendment of the plaintiffs, instead of which, the learned



Trial Court should have allowed the same either imposing some cost or otherwise on the plaintiffs, but should not have refused the proposed amendments of the plaintiffs.

14. Therefore, there is justification under law for making interference with the impugned order passed by the learned Trial Court through this CMP filed by the petitioners (plaintiffs).

15. As such, there is merit in this CMP of the petitioners/plaintiffs. The same must succeed.

16. In result, this CMP filed by the petitioners/plaintiffs is allowed.

The impugned order dated 05.08.2023 passed in C.S. No.107 of 2019 by the learned Senior Civil Judge, Jajpur is set aside.

The petition dated 23.06.2023 under O.6 R.17 of the CPC, 1908 of the petitioners (plaintiffs in the suit vide C.S. No.107 of 2019) is allowed subject to payment of cost of Rs.2,500/- (rupees two thousand five hundred) by the petitioners/plaintiffs to the O.P. Nos.1 & 2 (defendant Nos.1 & 2).

17. As such, this CMP filed by the petitioners is disposed of finally making it clear that, there shall be the issues relating to the point of limitation in respect of the sale deeds in favour of the vendors of the defendant Nos.1 & 2 as well as in favour of the defendant



Nos.1 & 2, to which, the plaintiffs are challenging along with other issues by the learned Trial Court in the suit vide C.S. No.107 of 2019 and the above imposed cost shall be paid by the plaintiffs to the contesting defendant Nos.1 & 2 before the learned Trial Court after receiving the record on or before the next date fixed by the learned Trial Court and on filing of amended plaint, the defendants shall be allowed to file their additional written statement challenging the amendments of the plaintiffs.

18. The parties in this CMP are directed to appear on dated 10.04.2026 before the learned Trial Court in the suit vide C.S. No.107 of 2019 for the purpose of receiving the directions of the learned Trial Court as to further proceedings of the suit vide C.S. No.107 of 2019 on the basis of the observations made in this judgment.

**(A.C. Behera),
Judge.**

Orissa High Court, Cuttack.
20.03.2026/Utkalika Nayak//
Junior Stenographer