



IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.228 of 2025

Rajendra Panigrahi & another ..... **Petitioners**  
Mr. H.B. Dash Advocate

-Versus-

Sailadu Raghunath & others ..... **Opposite Parties**

**CORAM:**  
**MR. JUSTICE R.K. PATTANAİK**

**ORDER**  
**28.03.2025**

**Order No.**  
**01.**

1. Heard Mr. Dash, learned counsel for the petitioners.
2. No notices are issued to the opposite parties as the matter is disposed of at the stage of admission.
3. Instant petition is filed by the petitioners challenging the impugned orders dated 13<sup>th</sup> December, 2024 & 20<sup>th</sup> December, 2024 passed in C.S. No. 140 of 2016 as at Annexure-6 by learned Senior Civil Judge, (LR & LTV) Berhampur on the grounds stated therein.
4. Mr. Dash, learned counsel for the petitioners submits that the suit was originally instituted by their predecessor-in-interest, namely, mother with a relief of declaration of right, title, interest in respect of the suit schedule property and confirmation of possession over the same, or recovery of possession and permanent injunction and cancellation of a registered sale deed executed in favour of the defendants. It is submitted that the amendment was sought for to the plaint by the petitioners with an application as at Annexure-3. The amendment is in relation to the valuation of the suit property but before considering the same, such an order dated 13<sup>th</sup>



December, 2024 at Annexure-6 was passed and it was followed by the order dated 12<sup>th</sup> December, 2024 with a direction to them to deposit the required court fee at Rs. 36,858/-. The submission is that learned court below fell into error directing such payment of court fee vide Annexure-6 without considering the amendment i.e. Annexure-3 of the plaint filed in terms of Order 6 Rule 17 CPC. Considering the submission of Mr. Dash, learned counsel for the petitioners and as the amendment is applied and the same is to involve the valuation of the suit, learned court below could have considered the same before any such order as per Annexure-6. In other words, the impugned order as at Annexure-6, before consideration of the application for amendment as per Order 6 Rule 17 CPC at the instance of the petitioners, could not have been directed, hence, therefore, the same is liable to be set aside with a remand and for further orders.

5. Accordingly, it is ordered.

6. In the result, CMP stands disposed of with a direction to learned Senior Civil Judge, (LR & LTV) Berhampur to consider the application under Order 6 Rule 17 CPC as at Annexure-3 and thereafter, to pass necessary order with regard to the valuation of the suit and court fee, if any, payable. As a necessary corollary, the impugned orders dated 13<sup>th</sup> December, 2024 & 20<sup>th</sup> December, 2024 at Annexure-6 in C.S. No. 140 of 2016 are hereby set aside with the direction as aforesaid.

7. Urgent certified copy of this order be issued as per rules.

**(R.K. Pattanaik)**  
**Judge**