

(2025) 03 JH CK 1324
In the Jharkhand High Court
Case No : C.M.P. No. 1102 Of 2023

Jharkhand Urja Vikas Nigam Ltd

APPELLANT

Vs

Smt. Nilu Tiwary

RESPONDENT

Date of Decision : 04-03-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Code of Criminal Procedure, 1973 — Section 144
Code of Civil Procedure, 1908 — Section 80, Order 6 Rule 17

Citation : (2025) 03 JH CK 1324

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Manish Kumar, Ramakant Tiwari, Maneesh Kumar

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Manish Kumar, learned counsel appearing for the petitioners and Mr. Ramakant Tiwari, learned counsel appearing for the O.P. Nos. 1 to 5.

2. This petition has been filed under Article 227 of the Constitution of India for quashing of the order dated 24.09.2022, passed in Title Suit No. 183 of 2016 by the learned Civil Judge-VI, Hazaribag, by which, the petition filed under Order-VI, Rule-17 of the CPC by the petitioners, has been dismissed by the learned court.

3. Mr. Manish Kumar, learned counsel appearing for the petitioners submits that the plaintiffs-respondents have instituted Title Suit No. 183 of 2016 before the learned Civil Judge, Sr. Division, Hazaribag for declaring the title of the said property in favour of the plaintiffs and further prayer was made to restrain the defendants to transfer, sale, damage or destroy the suit land in any manner whatsoever. He submits that land of Khata No. 203, Plot No. 652/1107 of village cantonment, Thana No. 157, area 2.95 acres was acquired land of defendants/

petitioners in the year 1975 over which office of Area General Manager-cum-Chief Engineer, Electric Supply Area, Hazaribag and office of the Electrical Superintending Engineer, Electric Supply Circle, Hazaribag are functioning. He further submits that the said land was acquired by District Land Acquisition Officer, Hazaribag and its possession was given to Electricity Department and compensation of Rs. 153230.10 was deposited in land Acquisition Department vide cheque No. 362004 dt. 19.02.1981 and thereafter the boundary wall was made by the electricity department and that was also published in the undivided Gazette of Bihar State. He also submits that once Section 144 Cr.P.C. proceeding was also decided in favour of the defendants. He submits that the written statement was already filed and it was found that certain admitted position has been discussed in the said written statement, for that the petitioners have filed a petition under Order-VI Rule-17 of the CPC for adding the new prayer being para-22A stating that Smt. Ajanta Rai had no title, no possession over the land of Plot No. 652/1107, Khata No. 203, measuring an area of 2.95 acres village-cantonment and therefore she had no right to execute the power of attorney on 12.07.2006 in favour of Mahavir Tiwary and on the basis of said power of attorney, the land has been transferred to the opposite parties and in view of that the said amendment was sought, however, the learned court has been pleased to reject the prayer on the ground that belatedly it has been filed and the nature of the suit will be changed. He further submits that the State of Bihar and the District Land Acquisition Officer are necessary parties, which are sought to be added as party and notice under Section 80 CPC was required to be issued.

4. Mr. Ramakant Tiwari, learned counsel appearing for the opposite parties has opposed the prayer and submits that belatedly the said petition was filed and the learned court has rightly rejected the said petition and further finding is there of the learned court that the nature of the suit will be changed, if the amendment is allowed.

5. It is an admitted position that the dispute is with regard to transfer of the said land, which is in possession of the electricity department, pursuant to the acquisition. Pursuant to the averment made in the petition, it appears that a sum of Rs. 153230.10 has been paid as compensation and it has been notified in the Bihar Gazette and the said suit property was transferred by way of power of attorney and to that effect, the amendment is sought to be made in the written statement saying that Smt. Ajanta Rai had no title, no possession over the land of Plot No. 652/1107, Khata No. 203, measuring an area of 2.95 acres village-cantonment and therefore she had no right to execute the power of attorney on 12.07.2006 in favour of Mahavir Tiwary and on the basis of said power of attorney, the land has been transferred to the opposite parties and if such a situation is there, it appears that the property was transferred on the basis of power of attorney and averments to that effect have already there in the written statement and the same has been tried to be amended in the written statement.

6. In view of the above, it appears that the amendment, sought for, is formal

amendment and nature of the suit will not be changed and further to avoid the multiplicity of litigation and in the interest of justice, the said amendment is allowed. The court finds that said amendment is formal in nature, as such, the order dated 24.09.2022, passed in Title Suit No. 183 of 2016 by the learned Civil Judge-VI, Hazaribag, by which, the petition filed under Order-VI, Rule-17 of the CPC by the petitioners, has been dismissed by the learned court, is hereby, set aside, subject to payment of cost of Rs. 5,000/- to the plaintiffs/opposite parties and the petition filed under Order-VI, Rule-17 of the CPC by the petitioners is allowed. The right of rebut the said amendment is kept reserved with the plaintiffs/opposite parties.

7. This petition is allowed and disposed of.