

(2025) 03 JH CK 1384
In the Jharkhand High Court
Case No : C.M.P. No. 763 Of 2022

Mohan Hembrom

APPELLANT

Vs

Baburam Tudu son of late Chhoto Tudu

RESPONDENT

Date of Decision : 24-03-2025

Acts Referred:

Code of Civil Procedure, 1908 — Order 6 Rule 17

Citation : (2025) 03 JH CK 1384

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kr. Verma, Arvind Kumar, Onkar Nath Tewari, Shahid Yunus, Krishna Kumar Bhatt

Final Decision : Dismissed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard the learned counsel for the petitioner as well as the learned counsels for the O.P.Nos.1,2, 3-8 and 9.

2. This petition has been filed for setting aside the order dated 10.05.2022 passed by learned Senior Civil Judge-V, Dumka in Title (P) Suit No.5 of 2012 whereby a petition filed by the petitioner/plaintiff under Order VI Rule 17 CPC in Misc. Civil Application No.62 of 2019 has been rejected.

3. Learned counsel for the petitioner submits that the petitioner has been substituted in place of plaintiff who has left for heavenly abode on 19.2.2016. He submits that thereafter the petition has been filed under Order VI Rule 17 CPC which has been rejected by the order dated 06.11.2017 and subsequently the present petition has been filed which has been wrongly rejected by the learned court. He submits that the nature of the suit is not being changed if the said amendment is allowed, however, the learned court has wrongly rejected the petition. He submits that in view of that, the learned court has wrongly passed the order which is against the well settled principle of law and he has relied in

the case of Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another reported in 2022 SCC OnLine SC 1128.

4. On the above ground, the learned counsel for the petitioner submits that this petition may kindly be allowed.

5. On the other hand, the learned counsels appearing for the opposite parties have opposed the prayer.

6. It transpires that the petition dated 21.7.2017 was filed under the same provision which has been rejected by the learned court on 06.11.2017 which has been challenged in WP(C) No.2034 of 2018 which was dismissed as withdrawn which clearly suggest that the earlier petition has not been agitated and after filing of the writ petition was not interested to press the petition and in view of that the same was dismissed as withdrawn. In view of the withdrawal of the writ petition, the petitioner filed under Order VI Rule 17 CPC which was rejected by the Order dated 06.11.2017 and that order has already attained finality and thereafter the second petition has been filed.

7. It is well settled that an order at one stage of proceeding acts as res judicata at all later stages of same proceeding. The Hon'ble Apex Court in the case of Satyadhan Ghosal v. Smt. Deorjin Debi reported in AIR 1960 SC 941 at paragraph 8 has held that an order at one stage of proceeding acts as res judicata at all later stages of same proceeding.

8. No case of interference has been made out and accordingly, this petition is dismissed.