

(2025) 07 JH CK 1252
In the Jharkhand High Court
Case No : C.M.P. No. 176 Of 2025

Shanti Toppo

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 17-07-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Code of Civil Procedure, 1908 — Order 6 Rule 17
Chotanagpur Tenancy Act, 1908 — Section 46

Citation : (2025) 07 JH CK 1252

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : H.K. Shikarwar, Mihir Kunal Ekka

Final Decision : Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. It has been recorded in the order dated 25.03.2025, notices upon opposite party nos. 3 to 7 have been effected and on that day, the matter was adjourned with a view to provide one more opportunity to opposite party nos. 3 to 7, however till date, no appearance has been made on behalf of opposite party nos. 3 to 7. The matter was further adjourned on 15.07.2025. In view of that, this petition is being heard in absence of opposite party nos. 3 to 7.

2. Heard Mr. H.K. Shikarwar, learned counsel for the petitioner and Mr. Mihir Kunal Ekka, learned counsel for the State- opposite party nos. 1 and 2.

3. This petition has been filed under Article 227 of the Constitution of India for setting-aside the order dated 06.08.2024 passed by the learned Civil Judge, Senior Division-VIII, Ranchi, whereby the petition filed under Order VI Rule 17 of the CPC in Original Suit No. 361 of 2009 has been rejected by the learned Court.

4. Mr. H.K. Shikarwar, learned counsel appearing for the petitioner submits that the husband of the petitioner instituted Original Suit No. 361 of 2009 with a

prayer for conforming the title, ownership and possession of the plaintiff upon the suit property. He submits that later on the petitioner herein was substituted as her husband has left for heavenly abode. He further submits that the husband of the petitioner was the original plaintiff and he was the owner of the land and property situated at Khata No. 28, P.S. No. 141, Plot No. 401 area 5 Katha, Village Bajara Bariyatu, Kumhartoli, P.S. Sukhdeonagar, Ranchi. He further submits that the said property was recorded in the name of Laxaman Oraon, who had two sons Ghashia Oraon and Thibu Oraon. The partition was done between Ghasia Oraon and Thibu Oraon and the schedule property of the suit came in the share of Ghasia Oraon. Ghasia Oraon being in need of money for purchase of Bullocks and other agricultural materials approached the plaintiff for selling the schedule land to him. Accordingly, permission for sale was sought from the Rent Suit Deputy Collector, Ranchi in order to transfer the schedule property to the plaintiff by the said Ghasia Oraon, which was registered as Misc. Case No. 657(R)II/1988-89 and the authority recommended for sanction on 06.04.1989 and the Sub Divisional Officer vide order dated 29.04.1989 gave sanction to transfer the scheduled land to the plaintiff under Section 46 of the Chotanagpur Tenancy Act. Thereafter, the said property was purchased by the husband of the petitioner by the sale deed no. 1165 dated 28.10.1992. He also submits that the suit is pending and during the pendency of the suit, a petition for intervention was filed by defendant no. 6 and that petition was allowed by the learned Court vide order dated 06.02.2024. Thereafter, defendant no. 6 has filed a separate written statement in paragraph no. 7, it has been disclosed that the land in question was further transferred to another person and in view of that, the amendment petition was filed under Order VI Rule 17 of the CPC to challenge the subsequent transfer to defendant no. 6. He submits that however the learned Court has rejected the same on the ground that the said transfer was made in the year 2008 whereas the suit was instituted in the year 2009 and in view of that, the petitioner was having the knowledge.

5. Mr. Mihir Kunal Ekka, learned counsel appearing for the respondent nos. 1 and 2 submits that the dispute is between petitioner and defendant no. 6.

6. In view of the above, it transpires the land in question was earlier purchased by the husband of the petitioner herein and subsequently, the intervention petition was filed, which was allowed by the learned Court vide order dated 06.02.2024 and that person was made defendant no. 6. Defendant no. 6 has filed the written statement where the plea was taken of transfer of the said land to defendant no. 6. It has been pointed out that petitioner herein was not knowing about the transfer of the said land to defendant no. 6.

7. In this background, it transpires that the property is similar and to avoid the multiplicity of the litigation, the amendment is necessary as a plea has been taken that it was not in the knowledge of the husband of the petitioner and the said land itself has been transferred to defendant no. 6.

8. It further transpires that after having the said knowledge, the amendment

petition was filed immediately. The written statement was filed by defendant no. 6 on 08.05.2024 and thereafter, the amendment petition was filed on 25.06.2024 and the learned Court has rejected the same vide order dated 06.08.2024. Thus, due negligence is also there.

9. In view of the above facts, the impugned order dated 06.08.2024 passed by the learned Civil Judge, Senior Division-VIII, Ranchi in Original Suit No.361 of 2009 is, hereby, set-aside.

10. The petition filed under Order VI Rule 17 of the CPC by the petitioner is allowed. The learned Court will allow the amendment to be carried out with a right of rebuttal to the defendants.

11. Accordingly, this petition is disposed of in above terms.