
(2025) 10 JH CK 0030

Jharkhand HC

Case No: Civil Miscellaneous Petition No. 588 Of 2024

Sri Partho Sengupta

APPELLANT

Vs

Abhijit Sengupta

RESPONDENT

Date of Decision: Oct. 13, 2025

Acts Referred:

- Code of Civil Procedure, 1908 — Order 8 Rule 1a(iii), Order 13 Rule 1, Order 13 Rule 2

Hon'ble Judges: Gautam Kumar Choudhary, J

Bench: Single Bench

Advocate: Ramchender Sahu, P.K. Bhattacharya, Aditya Kumar

Final Decision: Allowed

Judgement

Gautam Kumar Choudhary, J

1. Petitioner is the defendant and is aggrieved by the order dated 28.03.2024 passed in Original Suit No.355/2017 on rejection for leave to produce the documents under Order XIII Rules 1 and 2 of the CPC.

2. Petitioner filed the leave application to file the following documents as per the list as follows:-

- A. Original certified copy of information being R.S. Khata No.832, R.S. Plot Nos.2741, 2742 and 2743 - 01 sheet.
- B. Original legal notice of Advocate G.N. Pandey, Dhanbad served upon defendant no.1 dated 28.10.2010 - 02 sheets.
- C. Xerox copy of UID card of defendant no.7- Soma Sengupta - 01 sheet.
- D. Xerox copy of residence certificate of defendant no.8- Sutopa Sengupta - 09 sheets
- E. Xerox copy of UID card of defendant no.10- Chaitali Sengupta - 01 sheet.

3. The petition has been rejected by the learned trial Court on the ground that the said documents were not filed before the settlement of issue and the trial has commenced and was at the stage of

defendant's evidence.

4. It is submitted by the learned counsel on behalf of petitioner that the petition has been rejected only for the reason that the correct provision of law was not mentioned. The petition in effect was seeking leave under Order VIII Rule 1A (III) of the CPC, however, it was mentioned as under Order XIII and therefore, the petition was rejected. Learned trial Court failed to appreciate correctly the law that mere wrong mention of the provision of law cannot be a ground for its rejection. It is further submitted that the requirement of filing the list of documents is directory and not mandatory in nature. Reliance in this regard is place on *Jai Shankar Yadav & Others Vs. Bhola Yada & Others*, 2019 SCC OnLine Jhar 1509. The documents are relevant for deciding the dispute and are not beyond the pleadings.

5. It is argued by the learned counsel on behalf the plaintiffs/opposite parties that there is not only delay in filing of the petition, but relevancy has also not been shown while filing the said petition.

6. Having considered the submissions advanced on behalf of both sides, from the impugned order, it appears that it has been rejected on the ground that the trial had commenced. It has nowhere been stated that these documents were not relevant or were beyond the pleadings or are not relevant. So far as the law regarding the requirement of filing the list of documents and production of documents by the defendants which were not filed at the time of filing of the written statement is concerned, it has been held by a long line of judicial precedents that it was not mandatory in nature and was merely directory. It has been held in *Sugandhi (Dead) by Lrs. & Another Vs. P. Rajkumar*, (2020) 10 SCC 706

“Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation.”

7. Here in the present case since the case is still posted for defence evidence and therefore, bringing these documents will not prejudice or delay the trial, therefore, the impugned order is set aside.

Civil Miscellaneous Petition is allowed. Pending Interlocutory Application, if any, is disposed of.