

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No. 500 of 2026**

1. M/s City Alloys Private Limited through its Managing Director namely Vikash Kumar Gaddhyan, having its registered office at Hanuman Charai, P.O. & P.S.-Barakar, Dist.-West Burdwan, West Bengal
2. Vikash Kumar Gaddhyan, aged about 50 years, son of Basudeo Gaddhyan Managing Director of M/s City Alloys Private Limited, resident of Nirsa cum Chirkunda, Chirkunda, P.O.-Chirkunda, P.S.-Chirkunda, Dist.-Dhanbad
3. Narendra Gopal Singhal, aged about 56 years, son of Bajrang Lal Singhal, Director of M/s City Alloys Private Limited, resident of Hanuman Charai, P.O. & P.S.-Barakar, Dist.-West Bardman

.... Petitioner

Versus

M/s Hari Om & Co. through its proprietor Shri Ajay Kumar, son of late Ramjee Saw, having its factory at B-2, Industrial Area, Adityapur, P.O. & P.S.-Adityapur, Jamshedpur, Dist.-Seraikela-Kharsawan

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioners : Mr. Jitendra Kr. Pasari, Advocate
: Mr. Avinash Kr. Pasari, Advocate
For Opp. Party : Mr. Preetam Mandal, Advocate

.....

By the Court:-

1. Heard the parties.
2. This civil miscellaneous petition has been filed invoking the jurisdiction of this Court under Article 227 of the Constitution of India with the prayer to quash the part of

the order dated 10.04.2026 passed in Commercial Suit No. 30 of 2022 whereby and where under, although the learned Civil Judge (Senior Division)-I, Jamshedpur allowed the petition dated 16.07.2025 filed by the petitioners-defendants who contended that evidence on affidavit filed by the opposite party-plaintiff is not maintainable being not in accordance with Order XIX Rule 6(b) of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015; but instead of striking out the portion of the affidavit which was the repetition of the pleadings in toto, the learned Civil Judge (Senior Division)-I, Jamshedpur has returned the affidavit and directed the plaintiff to file examination-in-chief with respect of format and guidelines as contained in Order XIX Rule 6 of Code of Civil Procedure, which has erroneously been referred to as Rule 10 (6) of the Commercial Courts Act, 2015, by the learned commercial court in the impugned order.

3. The brief fact of the case is that the opposite party in Commercial Suit No. 30 of 2022 filed examination-in-chief of its first witness in shape of an affidavit. The undisputed fact remains that paragraph nos.2 to 14 of the said affidavit filed by the plaintiff is the reproduction of the pleadings as mentioned in paragraph nos. 1 to 13 of the plaint. It is needless to mention that the plaint consists of

17 paragraphs and the facts of the case have been confined in paragraph nos. 1 to 13 of the plaint. The affidavit filed in shape of examination-in-chief of P.W.1 was not in the format and guidelines for the affidavit of evidence as prescribed in Order XIX Rule 6 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 in respect of the Bar under Rule 6 (b) that the affidavit should not be a mere reproduction of the pleadings and Rule 6 (d) that the affidavit shall state which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief and the source for any matters of information or belief.

4. The affidavit was objected to by the defendants to be not in accordance with law. The defendants submitted that paragraph nos. 2 to 14 of the affidavit be struck off in exercise of the power under Order XIX Rule 6 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015.
5. The learned Civil Judge (Senior Division)-I, Jamshedpur opined that it is apparent that the affidavit filed by Ajay Kumar is not in accordance with Rule 10 (6) of Commercial Courts Act and returned the same and in exercise of Rule 10 (4) of Commercial Courts Act directed the plaintiff to file examination-in-chief in the format and

guidelines as contained in Rule 10 (6) of the Schedule of Commercial Courts Act, 2015.

6. It is submitted by the learned counsel for the petitioners that the learned Civil Judge (Senior Division)-I, Jamshedpur could not appreciate the provision of Order XIX Rule 4 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 since the said Rule does not provide to file evidence on affidavit again and further the learned court below instead of striking out the affidavit in exercise of the power Order XIX Rule 6 (b) of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 ought not have returned the affidavit filed in the shape of examination-in-chief. Hence, it is submitted that prayer as made in this civil miscellaneous petition be allowed.
7. Learned counsel for the opposite party on the other hand opposes the prayer. It is submitted by the learned counsel for the opposite party that Order XIX Rule 5 (ii) of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 provides for return of an affidavit of examination-in-chief as not constituting admissible evidence and the plaintiff because of lack of legal knowledge has committed an error by filing the examination-in-chief of Shri Ajay Kumar- the sole proprietor of the plaintiff not in the format prescribed by

the Order XIX Rule 6 (b) of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015; so at the most, it can be treated as an inadmissible evidence having not in consonance with the procedure prescribed therefor. Under such circumstances, the order of returning the affidavit in shape of examination-in-chief cannot be faulted with and certainly in exercise of the power under Order XIX Rule 4 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015, the court has the power to regulate the evidence as to the issues on which it requires evidence and had the learned Civil Judge (Senior Division) -I Jamshedpur struck off the entire evidence of the pleadings without giving any opportunity for filing an appropriate affidavit in compliance of the Rules, it would have ended in miscarriage of justice. Therefore, it is submitted that the learned Civil Judge (Senior Division)-I, Jamshedpur was well within its power to give an opportunity to the plaintiff to file examination-in-chief afresh. It is, therefore, submitted that this civil miscellaneous petition being without any merit be dismissed.

8. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that to achieve the objects of the Commercial Courts Act, 2015 for speedy disposal of high

value commercial disputes, the Commercial Courts Act, 2015 was enacted to accelerate economic growth, improve the international image of justice delivery system and the faith of the investor world in the legal culture of the nation.

9. It will be appropriate at this stage to refer to section 16 of the Commercial Courts Act, 2015, which reads as under:-

16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes. – (1) *The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.*

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (5 of 1908), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

In terms of section 16 of the Commercial Courts Act, 2015, the Schedule of the Commercial Courts Act, 2015 amended the various provisions of the Code of Civil Procedure of course, which is applicable to only to the Commercial Division and Commercial Courts in the trial of a suit in respect of a commercial dispute of a Specified Value. By serial no. 10 of the Schedule of the Commercial Courts Act, Order XIX of the Code of Civil Procedure has

been amended by inserting Rule 4 to 6 after Rule 3 in the said Order of the Code of Civil Procedure. So, certainly, the learned Civil Judge (Senior Division)-I, Jamshedpur committed an error by referring to the provisions of Order XIX Rule 4 to 6 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 as Rule 10 of the Commercial Courts Act; because the Schedule of the Commercial Courts Act, 2015 by which the provisions of Code of Civil Procedure have been amended is not a Rule.

10. Now coming to the facts of the case, it is relevant to quote Rule 4, 5 and 6 of Order XIX of Code of Civil Procedure as it stands after amendment by the Schedule of the Commercial Courts Act, 2015 which reads as under:-

“4. Court may control evidence.—(1) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.

5. Redacting or rejecting evidence.—A Court may, in its discretion, for reasons to be recorded in writing –

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

6. Format and guidelines of affidavit of evidence.—An affidavit must comply with the form and requirements set forth below:

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state –

- (i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and*
- (ii) the source for any matters of information or belief.*

(e) an affidavit should –

- (i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);*
- (ii) be divided into numbered paragraphs;*
- (iii) have all numbers, including dates, expressed in figures; and*
- (iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.”.*

11. It is pertinent to mention that by such amendment Rule 1 to 3 of the Order XIX of Code of Civil Procedure is still applicable to the proceeding of the Commercial Courts in respect of commercial disputes and the Rule 4 to 6 of Order XIX has been introduced to supplement Rule 1 to 3 of Order XIX of the Code of Civil Procedure.
12. Now the plain reading of Rule 5 (ii) of Order XIX of Code of Civil Procedure makes it abundantly clear that the said Rule vests the power to the Commercial Court to *inter alia* return an affidavit of examination-in-chief as not constituting admissible evidence. As rightly submitted by the learned counsel for the petitioners Rule 6 (b) of Order XIX of Code of Civil Procedure provides that where the

Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper.

13. The undisputed fact remains that in paragraph nos. 2 to 14 of the affidavit filed in shape of examination-in-chief was a reproduction of the pleadings as contained in paragraph nos. 1 to 13 of the plaint but the impediment as is apparent from the impugned order of the learned Civil Judge (Senior Division)-I, Jamshedpur in exercising such power was that even the paragraph nos. 1 and 15 to 16 of the said affidavit filed in the shape of examination in chief were also not in compliance with Rule 6 (d) of Order XIX of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 as it was not mentioned therein as to which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief.
14. Since, admittedly, the affidavit in shape of examination-in-chief was not in terms of the format and guidelines of Order XIX Rule 6 of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 certainly, the same was not admissible in evidence. Under such facts of the case, the learned Civil Judge (Senior

Division)-I, Jamshedpur having returned the affidavit in examination-in-chief, this Court do not find any illegality in the said order.

15. It was strenuously argued by the learned counsel for the petitioners that striking out of the affidavit means that under no circumstances, any more pleading be allowed to have been filed but this Court is not in agreement with the learned counsel for the petitioners for the reasons that Rule 1 of Order XIX of Code of Civil Procedure which is still applicable to the proceeding of the Commercial Courts provides that any Court may at any time, for sufficient reasons, order that any particular fact or facts may be proved by affidavit, but the proviso of Rule 1 of the said Order vest the power with the Court that when it appears to the Court that either party *bona fide* desires production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorizing the evidence of such by affidavit. Further, Rule 4 of Order XIX of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 also vest the Commercial Courts with the power of direction to regulate evidence as to issues on which it requires evidence.
16. The undisputed fact remains that Ajay Kumar whose examination-in-chief was filed in shape of affidavit is the

first witness and he is the sole proprietor of the plaintiff so obviously, his evidence is required as to the issues of involving the commercial disputes.

17. Under such circumstances, keeping in view the settled principle of law that procedure is a handmaid of justice and it cannot be allowed to be the master, which means that legal rules and steps are tools to help reach a fair result and courts use this idea to stop minor technical mistakes from ruining a person's true legal rights; in the considered opinion of this Court, no patent illegality has been committed by the learned Civil Judge (Senior Division)-I, Jamshedpur in returning the affidavit in shape of examination-in-chief and giving an opportunity to the plaintiff to file examination-in-chief in the format and guidelines as contained in Rule 6 of Order XIX of Code of Civil Procedure as amended by the Schedule of the Commercial Courts Act, 2015 more so, when the undisputed fact remains that cross-examination of the witness is yet to start; warranting interference of this Court in exercise of the power under Article 227 of the Constitution of India.
18. Accordingly, this civil miscellaneous petition being without any merit is dismissed.

(2026:JHHC:23775)

19. In view of the dismissal of this civil miscellaneous petition, interlocutory applications, if any, is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 10th August, 2026
AFR/Gunjan/-

Uploaded on 12/08/2026