

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 655 of 2015

M/s Madhoram & Sons A Registered Partnership Firm, Through The Partner Santosh Gupta, S/o Shri Madhoram Gupta, Aged About 58 Years, R/o Handi Chowk, Raigarh, (Chhattisgarh)

---- Petitioner/defendant

Versus

Murlidhar Gupta S/o Late Shri Bhagirathi Gupta Aged About 48 Years Occupation Business, R/o Chhatamura, Tahsil Raigarh, Distt. Raigarh, (Chhattisgarh)

---- Respondent/plaintiff

For Petitioner

- Shri Amrito Das, Advocate

Order

14/08/2015

Heard on admission

1. This petition under Article 227 of the Constitution of India is directed against order dated 21.07.2015 passed by the Trial Court, by which, petitioner's application for amendment filed under Order 6 Rule 17 of CPC has been rejected.

2. Learned counsel for the petitioner argued that during the pendency of the suit, the petitioner came to know that in the revenue proceedings, the Board of Revenue has granted permission to the Collector to review earlier order passed in the matter of grant of lease in favour of respondent plaintiff on the ground that the lease deed illegally recorded the name of respondent plaintiff as the *patta* holder, in respect of the land in dispute whereas, the land belongs to manager of Gowri Shankar temple. These facts, it is argued, are relevant to substantiate petitioner/ defendant defence of denial of title of respondent plaintiff. By rejecting the application, the Court below has denied the petitioner defendant opportunity to prove that the plaintiff is not the owner of the land in dispute.

3. Present is a case, wherein, respondent filed a suit for eviction of the petitioner plaintiff on the ground of non-payment of land and bonafide need. The documents, which are

proposed to be brought on record, are not any final order passed by the Collector directing deletion of the name of the plaintiff. At present, the Board of Revenue has only granted permission to the Collector to review the order passed earlier by him. In the civil proceedings, the aforesaid facts regarding pendency of review case at different stages has no bearing unless a final order is passed by the competent authority deleting the name of the plaintiff. Learned Trial Court has observed in the order that the case is being listed for recording plaintiff evidence since long and though plaintiff witness have remained present but on various dates fixed for recording evidence, applications are being filed by the defendant/tenant to delay the proceedings. The Court below has rejected the application with a cost of Rs.800/-.

4. In view of the above, no ground for interference under Article 227 of the Constitution of India is made out. The petition is therefore dismissed.

Sd/-

Manindra Mohan Shrivastava

J U D G E

Rekha