

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 168 of 2015

- Bhawdas S/o Gurudas, aged about 55 years, Caste - Sahu R/o Bacchherbhata, Tahsil Dongargarh, District Rajnandgaon (C.G.)

---- Petitioner

Versus

1. Pardeshi, S/o Dwarika, aged about 55 Years, Caste - Gond, R/o Bacchherbhata, Tahsil Dongargarh, District Rajnandgaon (C.G.)
2. The State of Chhattisgarh, the Collector, Rajnnadgaon (C.G.)

---- Respondents

For Petitioner
For Respondent No.2/State

Shri Shrawan Kumar Agrawal, Advocate
Shri Ashutosh Pandey, Panel

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

10/03/2015

1. The present petition under Article 227 of the Constitution of India is preferred against the order passed by the trial Court, whereby petitioner's/plaintiff's application under Order 6 Rule 17 of Code of Civil Procedure (for short, 'CPC') and under Order 7 Rule 14(3) of CPC have been rejected.
2. Admittedly both the parties have exchanged their pleadings and the trial is fixed for recording evidence, therefore, the proviso to Order 6 Rule 17 of CPC is attracted.
3. While rejecting petitioner's prayer for amendment in the plaint the trial Court has observed that the proposed amendment in the plaint are matters of

evidence, therefore, the same is not necessary. This Court is also of the opinion that because of the proviso to Order 6 Rule 17 of CPC and for the fact that the proposed amendments appear to be in the nature of subject matter of evidence, the trial Court has rightly rejected the application.

4. In his another application under Order 7 Rule 14(3) of CPC plaintiff wanted to produce documents, however, the same has been dismissed on the ground that the application has been submitted belatedly.

5. Since admittedly evidence is yet to commence, the delay in filing the document is not of such nature which will seriously prejudice the other party. If the plaintiff desires to introduce some documents at the initial stage of trial, it should not have been rejected only on the ground that the plaintiff could have produced the same at an earlier date.

6. In the opinion of this Court, when there is no finding by the trial Court that the documents are not necessary for adjudication of the issues, it should have granted the application and the documents should have been taken on record.

7. Accordingly, the writ petition is allowed in part. The document filed by the petitioner along with his application under Order 7 Rule 14(3) of CPC is allowed, however, his petition challenging rejection of application under Order 6 Rule 17 of CPC is dismissed.

J U D G E