

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 396 of 2016

- Jagdish Chandra Pasrija S/o Late Lala Kashiram Pasrija, Aged About 74 Years R/o J. K. Paper Converting Industries, Yadav Complex, Sharda Chowk, Banjari Road, Civil & Revenue Distt. Raipur, (Chhattisgarh), Present Address- C- 27, R M S Colony, Tagore Nagar, Raipur, Police Station Tikrapara, Raipur, Civil & Revenue Distt. Raipur, (Chhattisgarh)

---- Petitioner

**Versus**

- Balram Singh Yadav S/o Late Birbal Yadav, R/o Yadav Complex, Sharda Chowk, Banjari Road, Raipur, Civil & Revenue Distt. Raipur, (Chhattisgarh)

---- Respondent

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For Petitioner

Mr. Sanjeev Banjare, Advocate

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

29/6/2016

1. Heard.
2. The petitioner/defendant is aggrieved by the impugned order passed by the trial Court rejecting his application under Order 6 Rule 17 of CPC. By the subject amendment, the defendant sought to plead that during pendency of the suit, the plaintiff has acquired an accommodation vacated by another tenant, therefore, his need is satisfied.
3. Admittedly, the suit is fixed for recording of evidence of

defendant's witnesses, therefore, proviso to Order 6 Rule 17 CPC is attracted. Hence, the trial Court has observed that the defendant was only allowed to make consequential amendment, but the defendant has raised new grounds in the amendment application.

4. In the considered opinion of this Court, the trial Court has not committed any such illegality or irregularity warranting interference under Article 227 of the Constitution of India.
5. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**<sup>1</sup> and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**<sup>2</sup>, the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**<sup>3</sup> has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings

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1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

6. In view of the above law laid down by the Supreme Court, the present writ petition deserves to be and is hereby dismissed.

Sd/-

Judge

**(Prashant Kumar Mishra)**

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