

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 340 of 2016**

1. Premlata W/o Harkesh Lal Sahu, Aged About 46 Years R/o Bhaiyathan Road, Surajpur, Police Station Surajpur, Tehsil Surajpur, District Surajpur Chhattisgarh
2. Harkesh Lal Sahu, S/o Shri Prasad, Aged About 50 Years R/o Bhaiyathan Road, Surajpur, Police Station Surajpur, Tehsil Surajpur, District Surajpur Chhattisgarh. Occupation Business/ Agriculture.
3. Shivkailash, S/o Nanda, Aged About 63 Years R/o Parsapara, Police Station Surajpur Tehsil Surajpur District Surajpur Chhattisgarh. Business/ Agriculture.
4. Shyamlal S/o Vishwanath, Aged About 53 Years R/o Gangoti, Police Station Surajpur, Tehsil Surajpur District Surajpur Chhattisgarh. Business/ Agriculture.
5. Chagan, S/o Subran, Aged About 53 Years R/o Surajpur, Police Station Surajpur, Tehsil Surajpur District Surajpur Chhattisgarh

Occupation of all Business / Agriculture.

---- **Petitioners**

Versus

1. Ambika S/o Ramdev Aged About 56 Years Caste Rajwar, R/o Badkapara Surajpur, P.S. Surajpur, Tehsil & District Surajpur Chhattisgarh
2. State Of Chhattisgarh Through The Collector, Surajpur District Surajpur Chhattisgarh

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For Petitioners	:	Shri Anand Shukla, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

13/06/2016

1. This is defendants' writ petition under Article 227 of the Constitution of India, challenging the order passed by the trial Court allowing plaintiffs' application

under Order 6 Rule 17 CPC.

2. Admittedly, issues have not yet been framed by the trial Court, therefore, the bar contained in the proviso to Order 6 Rule 17 CPC is not attracted.
3. It is argued that the subject amendment proposed by the plaintiffs would change the nature of the suit, inasmuch as in the revenue proceedings, as well as in the original plaint, the plaintiff has always referred to Khasra No.58/1, which is now sought to be corrected as Khasra No.58/2 thus, the very basis of the suit would be changed.
4. Since the suit is at the stage of framing of issues, even if, the plaintiff has amended the plaint by mentioning Khasra No.58/2 instead of Khasra No.58/1 at several places, the petitioners/defendants would have the opportunity to rebut or resist the amended pleadings by making consequential amendment to bring to the notice of the Court the inconsistent or variance in pleadings or stand taken by the plaintiff before different judicial/legal forum.
5. For the present, the matter is only about allowing the plaintiff to amend the plaint. While allowing such prayer, the trial Court does not appear to have committed any such illegality or jurisdictional infirmity so as to warrant exercise of jurisdiction under Article 227 of the Constitution of India.
6. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**¹ and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**², the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 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.

7. Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.
8. Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

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