

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 629 of 2016

1. Ramnaresh Patel, aged about 39 years, S/o. Shri Rampati Patel, By Caste-Kurmi, R/o. Joda Talab Shiv Mandir Ke Pass, Manendragarh, District – Koriya (C.G.)

----Petitioner

Versus

1. Kulwant Singh Raina, aged about 62 years, S/o. Late Guruvachan Singh, R/o. Ward No.17, Manendragarh, District – Koriya.
2. State of Chhattisgarh, through Collector, Distt. Koriya Baikunthpur.
3. Amarnath Vishwakarma, S/o. Bhulluram Vishwakarma, By Caste-Lohar, R/o. Ward No.4, Tahsil Manendragarh, District Koriya.

---- Respondents

For Petitioner : Mr. Parag Kotecha, Advocate

For Respondent/State : Mr. Sangharsh Pandey, Dy.Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21/10/2016

1. Challenge in this petition is to the order dated 02.09.2016, passed in Civil Suit No.3A/2012 by the learned 2nd Additional District Judge, Manendragarh, District – Koriya, whereby an application under Order 6 Rule 17 of C.P.C. for amendment in the plaint filed by the petitioner has been rejected.
2. Brief facts of the case are that a civil suit was filed for specific performance of contract initially against the defendant No.1, Kulwant Singh Raina in respect of the land bearing Kh. No. 217/10, admeasuring 1.062 hectare. During the pendency of the suit, the said property was subject of sale to the respondent No.3, Amarnath Vishwakarma on 12.12.2011 and he has also been arrayed as defendant. Subsequently an application for amendment was moved

with a prayer that apart from the suit property i.e. bearing Kh.No. 217/10, the defendant No.1 has another property i.e. bearing Kh.No. 217/6, 217/8 in other location and since in respect of the suit property, the sale deed has already been executed, therefore, the other property be included as suit property so that necessary order for sale of such property can be passed in the event, if the, suit is decreed.

3. Perusal of the plaint would show that the plaintiff has included the prayer that subsequent sale deed dated 12.12.2011 be declared as null and void and the pleading would show that initially the agreement was executed between the plaintiff and the defendant No.1, Kulwant Singh Raina in the year 2009 for which suit for specific performance has been filed.
4. Considering the prayer made in amendment petition wherein different property is sought to be included as it appears to be different from property under contract, if the amendment is allowed it would amount to start a litigation over a different individual property.
5. Therefore, after going through the order, in my considered opinion as appears no jurisdictional error has been committed or it can be stated that it is a case where the Court has exceeded the jurisdiction vested in it by law. Consequently I am of the opinion that this is not a case where the power under Article 227 of the Constitution of India is to be invoked.
6. Accordingly, the petition is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge