

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 1064 of 2015**

Udya Sahkari Grih Nirman Sanstha Tatibandh Raipur Registered Society under the Cooperative Society Act, Through the President, Udya Sahkari Grih Nirman Sanstha, Udya Nagar, Tatibandh, Raipur, (C.G.)
.... Plaintiff

---- **Petitioner**

Versus

1. Sakharam Sahu, S/o Shri Vishnu Ram Sahu, R/o Tatibandh, Raipur, Tehsil and District Raipur (C.G.)
2. State of Chhattisgarh, Through Collector, Raipur, Distt. Raipur (C.G.)
3. Sunil Kumar Baidhy, S/o Shri B.L. Baidhy, R/o Sadar Bazar, Mungeli, District Mungeli (C.G.)
4. Prafull Kumar Baidhya, S/o Shri G.C. Baidhya, R/o Sadar Bazar Mungeli, District Mungeli (C.G.)Defendants

---- **Respondents**

For Petitioner: Mr. Ghanshyam Patel, Advocate
For Respondent No.2 : Mrs. Astha Shukla, PL
For Respondent No. 3: Mr. Anand Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/11/2016

Heard.

(1) The instant petition has been filed questioning the order passed by the trial Court by which petitioner's/plaintiff application for leave to amend the plaint has been rejected on the ground that proposed amendment will change the nature of suit.

(2) Learned counsel appearing for the petitioner/plaintiff would submit that the proposed amendment is only elaborately in nature and the necessary pleadings have already been made.

(3) On the other hand, counsel for respondent No. 3 would submit that the proposed amendment will change the nature of suit; and it has been filed after the trial is commenced.

(4) I have heard counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) The application under Order 6 Rule 17 of the CPC was filed by the petitioner/plaintiff after framing issues and after filing affidavit under Order 18 Rule 4 of the CPC, examination-in-chief. The trial Court has rejected the same by holding that amendment sought by the plaintiff will change the nature of suit.

(6) After hearing learned counsel appearing for the parties and in view of the pleadings, which have already been made, this Court is of the opinion that amendment sought by the plaintiff is elaborately in nature and does not change the nature of suit. Thus, the amendment ought to have been allowed by the trial Court.

(7) Accordingly, the writ petition is allowed. Impugned order dated 24.3.2015 is set aside. Application under Order 6 Rule 17 of the CPC is allowed subject to payment of cost of Rs.5,000/- payable to the respondent No. 3- Sunil Kumar Baidhya within a period of 15 days from the date of appearance before the trial Court.

(8) The parties are directed to appear before the trial Court on **28.11.2016**.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

