

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.178 of 2016**

Girish Chandra Gupta S/o Laye Atmaram Gupta, Aged About 46 Years
Occupation Business, R/o H-2, Narmada Nagar, Ring Road No. 2,
Bilaspur, Tehsil & District Bilaspur (Chhattisgarh).

---- Petitioner**Versus**

1. Smt. Upasna Gupta W/o Satish Chandra Gupta, Aged About 37 Years Occupation House Wife, R/o House No. 203 (Old Number 346), Gendram Sao Road, Ward No. 27, Krishna Nagar Ward, Zuna, Bilaspur, Tehsil & District Bilaspur (Chhattisgarh).
2. Satish Chandra Gupta, S/o Late Atmaram Gupta, Aged About 50 Years Occupation Income Tax Advisor, R/o House No. 203 (Old Number 346), Gendram Sao Road, Ward No. 27, Krishna Nagar Ward, Zuna, Bilaspur, Tehsil & District Bilaspur (Chhattisgarh).
3. Nagar Palik Nigam, Bilaspur, Through Commissioner, Townhall Bilaspur, Tehsil & District Bilaspur (Chhattisgarh).

--- Respondents

For Petitioner	:	Shri Sanjay Patel, Advocate
For Respondents	:	Shri Ratnesh Kumar Agrawal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/11/2016****(1)** Heard.

(2) The plaintiff/respondent No.1 filed a civil suit for declaration and permanent injunction on 17.10.2011 in which, written statement has been filed by the defendant No.1 on 02.05.2012 and on 18.12.2015 an

application under Order 6 Rule 17 of CPC for amendment in the written statement has been filed and that has been rejected by the trial Court by its impugned order dated 06.02.2016 finding no merits, against which, this writ petition under Article 227 of the Constitution of Indian has been filed by the petitioner/defendant No.2 herein.

(3) After hearing learned counsel for the parties, I am satisfied that the trial Court has exercised jurisdiction properly by rejecting the application filed by the defendant No.1.

(4) Applying its earlier in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder V. Rahul Kumar Agrawal**³ 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 :(1) 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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.

(5) Have heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality and perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

(6) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-