

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 462 of 2016**

1. Murlidhar, aged about 27 years, S/o Anand Ram @ Anantram Sindhi,
2. Rajkumar, aged about 37 years, S/o Anand Ram @ Anantram Sindhi,

Both businessmen, R/o Akaltara, Tah. Akaltara, District Janjgir-Champa (C.G.)

(Defendant No.1 Harish has been died and no LR's in trial Court hence he has not been made party)Defendants

---- **Petitioners**

Versus

Ravindranath Agrawal, aged about 61 years, S/o Late Suryavanshi Lal Agrawal, R/o Gram Purani Basti, Baniyapara, Raipur, Tahsil & District Raipur (C.G.)..Plaintiff

---- **Respondent**

For Petitioners	:	Mr. Shrawan Agrawal, Advocate.
For Respondent	:	Mr. N.K. Chatterjee, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/11/2016

(1) By the impugned order dated 21.04.2016, the trial Court has granted an application under Order 6 Rule 17 of the CPC subject to payment of cost of ₹ 500/- payable to the defendants, petitioners herein, against which, this writ petition has been filed by defendants.

(2) Learned counsel for the petitioners submits that the amendment sought is belated and could not have been allowed by the trial Court. He further submits that the suit filed by the plaintiff is abated.

(3) On the other hand, learned counsel for the respondents submits that the trial has not commenced and, as such, subject to payment of cost, the

application has been allowed.

(4) Since the trial Court in exercise of its discretionary power allowed the application for amendment finding that proposed amendments to be necessary for just & proper decision of the suit, I do not find any jurisdictional error to be corrected in jurisdiction under Article 227 of the Constitution of India.

(5) Applying its earlier decision 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 Agarwal**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 : (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.

(6) Accordingly, the writ petition is liable to be and is hereby dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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