

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.542 of 2016

1. Krishna Nand Singh, S/o Shri R.B. Singh, aged about 36 years,
2. Smt. Shikha Singh, W/o Shri Krishna Nand Singh, aged about 33 years,

Both are R/o Kedarpur, Near Water Tank, Ambikapur, P.S. & Tahsil Ambikapur, District Surguja (C.G.)

(Plaintiffs)
---- Petitioners

Versus

1. Atul Dubey, S/o Vijay Nath Dubey, aged about 38 years, R/o Pratappur Road, Ambikapur, District Surguja (C.G.)
2. Meena Dubey, W/o Atul Dubey, R/o Mahamrityunjay Bhawan, M.I.P. 3/12/134, Nehru Nagar, Riwa (M.P.)
3. The State of Chhattisgarh, Through the Collector, Surguja, District Surguja (C.G.)

(Defendants)
---- Respondents

For Petitioners:	Mr. S.C. Verma, Advocate.
For Respondent No.1:	Mr. Sunil Tripathi, Advocate.
For State/Respondent No.3:	Mrs. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/11/2016

1. The trial Court has rejected the application for amendment filed by the petitioners herein holding that leave to amendment has been filed with inordinate delay.
2. Mr. S.C. Verma, learned counsel for the petitioners, submits that the defendants' application under Order 14 Rule 5 of the CPC was granted by the trial Court by order dated 29-7-2015 therefore the amendment is necessitated and as such, it is

necessary to be amended.

3. Whereas, Mr. Sunil Tripathi, learned counsel appearing for respondent No.1 / defendant No.1, would submit that the said matter is covered by the provisions of the Companies Act and not cognizable by the civil court.
4. I have heard learned counsel for the parties and perused the impugned order.
5. Though the suit was filed on 23-1-2010 and the defendants have filed written statement on 22-3-2010, but additional issues were framed by the order of the trial Court pursuant to the application filed by defendant No.1 on 26-6-2015 and by the impugned order, the petitioners' application for amendment seeking further relief of declaration said to have been filed to avoid multiplicity of the suit, has been rejected. Defendant No.1 has proposed additional issues as late as on 26-6-2015 and which has been granted by that Court. Considering the nature of amendment proposed and to avoid multiplicity of litigation, it would be appropriate to allow the amendment subject to payment of cost of Rs.5,000/- to defendant No.1. However, defendant No.1 would be entitled to amend his written statement making consequential amendment. It is directed that the petitioners will incorporate the amendment within seven days from the date of appearance before the trial Court i.e. on 15-11-2016 and thereafter, defendant No.1 will make an application for consequential amendment on or before 29-11-2016 which will be allowed and additional issues, if any, will be

framed within a week up to 5-12-2016 and thereafter, the trial Court would consider and dispose of the suit within three months thereby concluding the same on or before 10-3-2017.

6. The writ petition stands disposed of. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma