

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 550 of 2016**

1. Ajay Agrawal S/o Shri Ramulal Agrawal, Aged About 50 Years
2. Sushma Agrawal W/o Ajay Agrawal, Aged About 44 Years
3. Jigyasu Agrawal S/o Ajay Agrawal, Aged About 22 Years

(All the above R/o Barejpara, Ambikapur District Sarguja (C.G.))

---- Petitioner**Versus**

1. Smt. Rama Gupta W/o Sushil Gupta, Aged About 52 Years R/o Post Office Road, Bihi Badi Ambikapur, P.S. & Tehsil Ambikapur, District Sarguja Chhattisgarh
2. State Of Chhattisgarh Through Collector Ambikapur, Collectorate Premises, District Sarguja Chhattisgarh
3. Akhilesh Pratap Singh, S/o Shri Awadeshwari Pratap Singh, Aged About 42 Years Caste Kshatriya, R/o Babupara, Ambikapur P.S. & Tahsil Ambikapur District Sarguja Chhattisgarh

---- Respondents

For Petitioners	:	Shri Kshitij Sharma, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****19/09/2016**

1. In this petition under Article 227 of the Constitution of India preferred by the plaintiff, challenge has been thrown to the trial Court's order dated 21.07.2016 allowing the defendant No.1 to amend his written statement as also the order dated 28.07.2016 allowing the application under Order 1 Rule 10 CPC preferred by respondent No.3 herein for his impleadment in the suit.
2. The plaintiff has preferred a suit for specific performance, wherein the

defendant No.1 has already filed her written statement. By moving an application under Order 6 Rule 17 CPC, the defendant No.1 proposed to amend the written statement on the ground that on account of typing mistake certain averments have been wrongly made, which is necessary to be amended. The trial Court has allowed the application accepting the plea that the proposed amendment was for removing the typing mistake and to make the pleadings in para 4 in line with the other part of the written statement.

3. Since admittedly, the evidence has not yet begun i.e. the trial has not begun, therefore, the trial Court has rightly allowed the application for amendment. It will remain open for the petitioner/plaintiff to make consequential amendment in view of the amendment made in the written statement.
4. Insofar as, the order allowing the application of respondent No.3 for his impleadment under Order 1 Rule 10 CPC is concerned, it is to be seen that the said respondent has purchased the suit land by registered sale deed dated 16.05.2016 and is therefore, entitled to raise a plea of being a *bona fide* purchaser. Even otherwise, the newly added defendant having acquired the title during pendency of the suit, he is interested in the outcome of the suit, therefore, it cannot be said that he is a stranger to the suit and has no say in the matter.
5. Learned counsel for the plaintiff has tried to impress upon the court about the falsity of the stand taken by by the defendant No.1 or for that matter the newly added defendant, insofar as execution of prior agreement and execution of the sale deed without being aware of the suit is concerned, however, on this aspect of the matter the petitioner would be at liberty to

amend his pleadings as and when the newly added defendant submits his written statement. At this stage of the proceedings, the Court need not go into the merits of the respective cases of the parties, which shall be gone into by the trial Court during trial of the suit.

6. For all the above stated reasons, there is no substance in this petition, therefore, it deserves to be and is hereby by dismissed, however, the trial Court is directed to expedite the trial and make all possible endeavour to dispose of the suit at the earliest.

Sd/-

Judge
Prashant Kumar Mishra

Ashu