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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.447 of 2017**

Jai Prakash Tiwari S/o Shri K. N. Tiwari, Aged About 33 Years R/o K 212 R.D.A. Colony, Hirapur Raipur, Tahsil And District Raipur Chhattisgarh P I N 492099 P. S. Hirapur.

---- Petitioner**Versus**

1. Surendra Sah S/o Late Shri Ram Das Sah, Aged About 56 Years R/o L I G 769 Slice 2 Veer Sawarkar Nagar, Hirapur Raipur, Tahsil And District Raipur Chhattisgarh P I N 492099 P. S. Hirapur.
2. Chhattisgarh Housing Board, Head Office, Raipur, Through : Its Commissioner, Shankar Nagar, Chhattisgarh Housing Board, Raipur, Civil And Revenue District Raipur (Chhattisgarh) Police Station Shankar Nagar Raipur.
3. Smt. Shashi Prabha Tiwari, W/o Jai Parkash Tiwari, Aged About 30 Years R/o K 212 R. D. A. Colony, Hirapur Raipur, Tahsil And District Raipur Chhattisgarh P I N 492099 P. S. Hirapur.

---Respondents

For Petitioner : Dr. Shiv Kumar Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

05/07/2017

(1) The application filed by the petitioner/defendant No.1 under Order 6 Rule 17 of CPC seeking amendment in the written statement, which was rejected by the trial Court by its impugned order dated 10.04.2017 on the ground that the trial has already commenced against which, this writ petition under Article 227 of the Constitution of India has been preferred by the petitioner.

(2) Learned counsel appearing for the petitioner would submit that

the proposed amendment is very much essential for proper adjudication of the suit, therefore, the impugned order is liable to be set-aside.

(3) I have heard learned counsel for the petitioner and perused the impugned order.

(4) The trial Court has clearly recorded a finding that there is no material on record to hold inspite of due diligence, the petitioner/defendant No.1 could not prefer such an application before the commencement of the trial.

(5) After hearing learned counsel for the petitioner and after going through the impugned order, the trial Court has assigned sufficient and valid reasons in rejecting the application. I do not find any jurisdictional error in the impugned order.

(6) Consequently, the writ petition deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-