

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WP227 No. 744 of 2017**

Sumit Parakh S/o Rikhab Chandji Parakh, R/o Flat No. 101, Rishabh Nagar,  
Durg, Tehsil and District Durg, Chhattisgarh ..... (Plaintiff)

**---- Petitioner****Versus**

1. Yashwant Kumar Sahu S/o Khamman Lal, Aged about 43 years, R/o Village SoledEEP, Tehsil Kurud, District Dhamtari, Chhattisgarh
2. State of Chhattisgarh, Through Collector, Dhamtari, District Dhamtari, Chhattisgarh .....(Defendants)

**---- Respondents**


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| For Petitioner        | : | Mr. Gagan Tiwari, Advocate.           |
| For Respondents/State | : | Mr. Arvind Dubey, P.L. for the State. |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****11/10/17**

Learned counsel appearing on behalf of the petitioner/plaintiff would submit that by the impugned orders dated 17.04.2017 and 04.05.2017, the trial Court has committed jurisdictional error in entertaining the application filed by the respondent No. 1 under Order 6 Rule 17 and Order 18 Rule 4 of the CPC, 1908. Therefore, the impugned orders are unsustainable and bad in law and are liable to be set aside.

2. Mr. Tiwari, learned counsel for the petitioner would further submit that since the trial has already commenced, proviso to Order 6 Rule 17 cannot be complied with.

3. On the other hand, learned State counsel would oppose.

4. I have heard learned counsel for the parties and perused the

impugned order with utmost circumspection.

5. The trial Court has clearly recorded a finding that the amendment is necessary for just and proper disposal of the suit and hence allowed the application under Order 6 Rule 17 of the CPC for amendment. The trial Court is also absolutely justified in allowing the respondents to file a fresh affidavit under Order 18 Rule 4 of the CPC, in which I do not find any jurisdictional error.

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

SD/-

**(Sanjay K. Agrawal)**  
Judge