

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.1081 of 2015

Romanlal, S/o Late Mangiyaram Sonber, R/o Village Sankara, Tehsil Nagri, District Dhamtari

(Applicant)
---- Petitioner

Versus

1. Brijbhusan, S/o Ramnath, age 58 years, Caste Sahu

2. Hemant, S/o Brijbhusan Sahu, age 30 years, Caste Sahu,

Both are R/o Village Sankara, Tehsil Nagri, District Dhamtari
(Non-applicants)

3. State of Chhattisgarh, Through Collector, Dhamtari

---- Respondents

For Petitioner:	Mr. Vikram Singh, Advocate.
For Respondents No.1 and 2:	Mr. D.N. Prajapati, Advocate.
For State/Respondent No.3:	Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/04/2017

1. By the impugned order, the plaintiff's application for amendment in the plaint has been rejected by the trial Court on the ground that the suit is at the final hearing stage.
2. Learned counsel for the petitioner / plaintiff relying upon the decision of the Supreme Court in the matter of **Sampath Kumar v. Ayyakannu and another**¹ would submit that the trial Court is absolutely unjustified in rejecting the application for amendment in the plaint.
3. On the other hand, learned counsel for respondents No.1 and 2

¹ AIR 2002 SC 3369

would submit that the suit has been filed for permanent injunction and trial has already been commenced and concluded, except final hearing, there is no reason assigned in the application as to why the application could not be filed before the commencement of trial and without due diligence.

4. After hearing learned counsel for the parties and after considering the arguments advanced on their behalf, I am of the opinion that the trial Court is absolutely justified in rejecting the application for amendment. Admittedly, the application for amendment has been filed after commencement of trial, but there is no averment in the application that in spite of due diligence, the plaintiff could not raise the matter before the commencement of trial. The trial Court is absolutely justified in passing the order impugned. I do not find any merit in the petition. The petition deserves to be dismissed and is accordingly, dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge