

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 520 of 2017**

Smt. Indu Patni, W/o Late Sohan Lal Patni, aged about 69 years,
R/o Bardana Wale, Near Biscuit Karkhana, Aapapura, Durg,
Tahsil & District – Durg (C.G.)...Defendant

---- Petitioner

Versus

Kamal Kishor Kanhaiyya Lal Agrawal, S/o Late Kanhaiyya Lal
Agrawal, aged about 67 years, R/o Ramdev Medical Stores, Jai
Estambh Chowk, Dongargarh, Tahsil – Dongargarh, Distt.
Rajnandgaon (C.G.) Plaintiff

---- Respondent

For Petitioner : Mrs. Fouzia Mirza, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****31/07/2017**

(1) The petitioner / defendant's application under Order 6 Rule 17 of the Code of Civil Procedure (henceforth 'CPC') for amendment in the written statement has been rejected by the trial Court, against which instant writ petition has been filed questioning the same.

(2) Counsel for the petitioner submits that the trial Court has committed jurisdictional error in rejecting the petitioner's application for amendment in the written statement, which is liable to be dismissed.

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

(4) The trial Court has clearly recorded a finding that evidence of the petitioner/defendant has been closed, the defendant filed her written statement on 9.8.2013 and no explanation has been given by the

defendant as to why all these facts, which are being sought to be incorporated by way of amendment, were not brought on record earlier and, therefore, the application for amendment cannot be allowed at this stage.

(5) A careful perusal of the application for amendment would clear that the suit is at the evidence stage and there is no compliance of the proviso to Order 6 Rule 17 of the CPC and, therefore, amendment application could not be filed earlier.

(6) Accordingly, the writ petition fails and is hereby dismissed. However, the petitioner would be at liberty to raise all these grounds at the time of final hearing.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-