

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 770 of 2017**

Harish Kumar Raghuvanshi S/o Late Preetam Das Raghuvanshi, Aged about 49 years, R/o Address of Service Infront of Manju Mamta Neelam Watch Company M.G. Road, Raipur District Raipur Chhattisgarh at Presently R/o New Rajendra Nagar Deepak Colony House No. 510, Police Station Rajendra Nagar Raipur District Raipur Chhattisgarh.

---- Petitioner

Versus

Tafajjul Hussain Azad S/o Haji Jakiyuddin, Aged about 46 years, R/o Sadar Bazar Raipur and Shop No. 38 Tikarapara Raipur Tahsil and District Raipur Chhattisgarh.

---- Respondent

For Petitioner : Mr. Raghvendra Pradhan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****26/10/17**

By the impugned order dated 01.09.2017, the trial Court has rejected the application filed by the petitioner/defendant under order 6 Rule 17 of the CPC seeking leave to amend the counter claim.

2. Learned counsel appearing on behalf of the petitioner would submit that the impugned order is unsustainable and bad in law as during the pendency of the suit, possession of the suit premises has been taken over by the plaintiff on 28.06.2016 which led to filing of the application for amendment seeking relief of possession of the suit land. That application has been rejected by the trial Court.

3. I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.

4. On careful perusal it appears that the amendment is based on subsequent events as the possession is taken over from the petitioner on 28.06.2016 and the application for amendment was moved on 02.07.2016, therefore, it would be expedient to allow the application for amendment subject to payment of cost of Rs. 4,000/- to the plaintiff. If the plaintiff does not appear, the amount shall be deposited by the petitioner in the C.C.D. within ten days from today and the amendment be also incorporated within ten days from today. The plaintiff will also be entitled to make an appropriate pleading. However, the plaintiff would be at liberty to move an application for modification of the order, if he is aggrieved.

4. With the aforesaid observations, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge