

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No.699 of 2016**

Kripashankar Jaiswal S/o Late Kailashpati Jaiswal, aged about 76 years, resident of Dislari Compound, Hajaribag Road, Lalpur, Ranchi, through power of attorney, Pradeep Kumar Jaiswal, S/o Late Ganesh Jaiswal, Resident of Ramanujganj, P.S. and Tahsil Ramanujganj, District Balrampur (CG)

---Petitioner**Versus**

1. Anil Kumar Agrawal, S/o Shri Bajrang Lal Agrawal, aged about 46 years,
2. Smt. Pushpa Agrawal, W/o Anil Kumar Agrawal, aged about 37 years,
3. Smt. Vidhyavati Devi, W/o Bajrag Lal Agrawal, aged about 60 years

Res.No.1 to 3 are resident of Jwahar Market, Ambikapur, District Surguja (CG)

4. Smt.Jyoti Sinha, W/o Vimlesh Sinha, aged about 60 years, Resident of Ramanujganj, P.S. and Tahsil-Ramanujganj, District-Balrampur (CG)
5. Smt.Rekha Devi Wd/o Late Ashok Agrawal, aged about 50 years, Resident of Ward No.7, Ramanujganj, through Pradeep Agrawal, P.S. and Tahsil-Ramanujganj, District Balrampur (CG)
6. Smt. Sarojani Devi W/o Late Girjashankar Jaiswal, aged about 70 years,
7. Ajay Kumar Jaiswal, S/o Late Girjashankar Jaiswal, aged about 52 years,
8. Vijay Kumar Jaiswal, S/o Late Girjashankar Jaiswal, aged about 47 years,
9. Smt.Sefali Jaiswal W/o Late Vinay Kumar Jaiswal, aged about 33 years,
10. Devnarayan Jaiswal, S/o Late Ramnarayan Jaiswal, aged about 74 years,
11. Shailendra Jaiswal S/o Late Shri Sangam Singh Jaiswal, aged about 38 years,

Res.No.6 to 11 are resident of village Dislari Hajalbag Road, Lalpur, P.S. Lalpur, Ranchi (Jharkhand)

12. State of Chhattisgarh, through Collector, Balrampur-Ramanujganj (CG)

---Respondents

For Petitioner	:	Mr.Sunil Tripathi, Advocate
For Res.No.1 to 5	:	Mr.A.K.Prasad, Advocate
For Res.No.12	:	Mr.Majid Ali, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

02/05/2017

1. By the impugned order, application for amendment filed by the petitioner/plaintiff has been rejected by the trial Court, against which, this writ petition under Article 227 of the Constitution of India has been filed.
2. Learned counsel for the petitioner would submit that amendment is clarificatory in nature and therefore, the trial Court has committed illegality in rejecting the application for amendment.
3. On the other hand, learned counsel for respondents No.1 to 5 would oppose the writ petition and submit that the petitioner is in fact seeking to withdraw the admission made in the plaint which cannot be permitted.
4. I have heard learned counsel appearing for the parties and perused the impugned order.
5. The trial Court after hearing both the parties has held that earlier the petitioner has filed the suit with regard to khasra No.471 area 3.20 acres which has been permitted to be withdrawn with liberty to file afresh suit and this suit has been filed claiming 1/4th share in the suit property, but by way of amendment claiming title over the entire suit land of khasra No.471 area 3.20 acres. The trial Court held that such an admission cannot be permitted to be withdrawn.
6. In the considered opinion of this Court, the petitioner/plaintiff having averred in the plaint that he has 1/4th share in the suit property cannot be permitted to be withdrawn the admission made in the plaint

and to claim that he has title over the entire suit land particularly when the first suit has been permitted to be withdrawn with liberty to file afresh suit. Even the Appellate Court on remand has only permitted the petitioner/plaintiff to give an opportunity to adduce the evidence and conclude the hearing of the suit.

7. I do not find any jurisdictional error in the impugned order. Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-