

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.357 of 2017**

1. S. R. Sahu S/o Late M. R. Sahu, Aged About 56 Years R/o Geetanjali House, Ameri Road, Bilaspur, Tahsil And District Bilaspur (Chhattisgarh)
2. Smt. Usha Sahu, W/o S.R. Sahu, Aged About 45 Years R/o Geetanjali House, Ameri Road, Bilaspur, Tahsil And District Bilaspur (Chhattisgarh)

---- Petitioners**Versus**

1. Laxmi Narayan Sharma S/o Shivnandan Sharma, Aged About 48 Years R/o Gayatri Mandir Road, R-2, Vinoba Nagar, Bilaspur, Tahsil And District Bilaspur (Chhattisgarh)
2. Raviprakash Sharma, S/o R. P. Sharma, Aged About 43 Years R/o Gayatri Mandir Road, R-2, Vinoba Nagar, Bilaspur, Tahsil And District Bilaspur (Chhattisgarh)
3. Satyadev Pandey, S/o Tej Prasad Pandey, Aged About 62 Years R/o Imlipara, New Bus Stand, Bilaspur, Tahsil And District Bilaspur (Chhattisgarh)
4. State Of Chhattisgarh, Through Collector, Bilaspur, District Bilaspur (Chhattisgarh)

---Respondents

For Petitioners : Mr. Malay Shrivastava, Advocate
 For State : Mr. Arun Sao, Deputy Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/05/2017

(1) By the impugned order dated 04.04.2017, the trial Court has rejected the petitioners/plaintiffs' application under Order 6 Rule 17 of CPC for amendment and to implead an additional para 17-A after para 17 in the plaint, against which the petition under Article 227 of the Constitution of India has been filed by the petitioners/plaintiffs herein.

(2) Learned counsel appearing for the petitioners/plaintiffs would submit that the amendment is procedural in nature and only relief clause has been sought by the plaintiffs and they have alternative remedy, therefore, the application for amendment may be allowed. In support of his case, he has relied upon a decision of Supreme Court in the matter of **Mahila Ramkali Devi & Others V Nandram (dead) through Legal Representatives & Others**¹ wherein it is held in paragraph 20 as under:-

“20. It is well settled that rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure. The court always gives relief to amend the pleading of the party, unless it is satisfied that the party applying was acting mala fide or that by his blunder he had caused injury to his opponent which cannot be compensated for by an order of cost.”

(3) On the other, learned counsel for the State would oppose the prayer made by the learned counsel for the petitioners.

(4) I have heard learned counsel for the parties and perused the impugned order with utmost circumspection.

(5) The trial Court has clearly held that the suit was filed by the petitioners/plaintiffs way back on 22.09.2008 claiming declaration, possession, permanent injunction and the sale deed dated 31.03.2005 is null and void; and the respondents/defendants be restrained for interfering with their possession and the plaintiffs' statement has already been recorded while such an application could not be filed

¹ (2015) 13 SCC 132

after commencement of the trial and, ultimately rejected the application for amendment filed by the plaintiffs and there is no reasons have been assigned for inordinate delay in claiming the amendment and trial has already been commenced.

(6) After hearing learned counsel for the parties and after going through the impugned order, I do not find any jurisdictional error in the impugned order. Sufficient and valid reasons have been assigned by the trial Court in rejecting the application relying upon the decision reported in the matter of **Vidyabai and Others Vs. Padmalatha and Another**².

(7) Consequently, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-