

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 64 of 2018

Smt. Garima Tiwari, W/o. Nawanil Tiwari, Aged About 30 Years, R/o. Bhilai 3, Shanti Nagar, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner**

Versus

1. Smt. Sarita Tiwari, W/o. Sanjay Tiwari, Aged About 46 Years, R/o. Village Ghutarkundi, Post Chilfi Bangla, District Kabirdham (Kawardha) Chhattisgarh.
2. State Of Chhattisgarh, C/o. Collector Mungeli, District Mungeli Chhattisgarh.

---- **Respondents**

For Petitioner : Mr. Manoj Kumar Jaiswal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23.02.2018

Heard

1. The instant petition is against the order dated 17.11.2017 passed by the Additional District Judge Mungeli whereby the application for amendment moved by the petitioner/plaintiff to amend the plaint has been rejected.
2. Perusal of the complaint would show that the suit for specific performance was filed by the plaintiff/ petitioner wherein pleading was made that agreement was dated 07.12.2013 and on that basis the suit has been filed. Subsequently, it has been stated that the though date is written as 07.12.2013 in the agreement, it was taken out from the Treasury on 09.12.2013 and was purchased on 27.12.2013 and the agreement was also executed on the same date, however, because of typographical mistake, it has been shown as 07.12.2013 consequently, the amendment has been sought for. The stamp was taken out from the Treasury on

09.12.2013 and on 27.12.2013 it was purchased, therefore, dates were sought to be amended.

3. Learned counsel for the petitioner submits that the evidence of the parties have not yet begun.
4. Perused the complainant as also the application for amendment. Copy of the part of agreement is also placed on record, which shows that the date of purchase of stamp is shows as on 27.12.2013. Considering the nature of the amendment sought for, no prejudice would be caused to the defendant if the amendment is allowed as the truth must prevail and the parties cannot be deprived of their right because of the typographical mistake as occurred in the plaint or any technical ground. The amendment sought for is not in a nature will seriously prejudice the right of the defendant instead if is disallowed will prejudice the right of plaintiff to place correct statement of facts. Consequently, the order dated 17.11.2017 is set aside. The necessary amendment may be carried out in a plaint within a period of 15 days from the date of production of a copy of this order. The defendant shall also be entitled to make consequential amendment thereafter.
5. With such observation, the petition is allowed.

Sd/-
(Goutam Bhaduri)
Judge