

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 32 of 2018

Ashok Kumar Bhalla S/o Late Jaswant Singh Bhalla Aged About 55 Years R/o Near Gurudwara Gond Para Tahsil & District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Suresh Kumar Bhalla @ Satish Kumar Bhalla, Aged About 62 Years S/o Late Shri Jaswant Singh Bhalla R/o Ratanpur Tahsil Kota , District Bilaspur Chhattisgarh Presently R/o Bhopal Madhya Pradesh Gulmohar Colony Shriganesh Jewellers Bhopal Madhya Pradesh .

2. Smt. Triptirani D/o Late Jaswant Singh Bhalla Aged About 51 Years W/o Shri Suryakumar Bharvesh , R/o Mandir Chowk Jarhabhatha Bilaspur Tahsil & District Bilaspur Chhattisgarh.

---- Respondents

For petitioner – Shri Ashok Kumar Shukla, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

11/01/2018

Heard.

1. Instant petition is against the order dated 7/12/2017 whereby the amendment which has been sought for in the application under Order 9 Rule 9 of CPC was allowed.
2. Perusal of the order and the document attached with this petition would show that an application under Order 9 Rule 13 CPC was moved by the petitioner to set aside judgement and decree passed on 7/04/2005 in Civil Suit No.40-A/2004. Subsequently, the said application under Order 9 Rule 13 CPC was dismissed for want of prosecution and in order to restore the same an application under Order 9 Rule 9 read with Section 151 of CPC and application under section 5 of the Limitation Act was moved. During pendency of this application under Order 9 Rule 9 CPC an amendment was sought for and it was pleaded that the Suresh Bhalla is also known as Satish Bhalla, therefore in the cause title of the application

under Order 9 Rule 9 CPC after Suresh Bhalla word @ Satish Bhalla be added. The proposed amendment was denied by the petitioner. However, the trial court allowed the said application on the ground that said proposed amendment do not change the nature of the proceeding. Consequently, same was allowed which is subject of challenge herein. Perusal of the order would show that only name of the parties have been clarified/added which is subject of evidence before the court as to whether Suresh Bhalla is also known as Satish Bhalla or not. By mere amendment submission made by the respondent cannot be accepted as gospel truth which would be subject of trial by evidence before court in facts of this case. Amendment which has been allowed primarily appears do not change the nature of application or cause serious prejudice to the parties so as to invoke power of this court under Article 227 of Constitution of India as I do not find any jurisdictional error in the order.

3. Consequently, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE