

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 431 of 2017

Babulal (wrongly mentioned in order sheet Baburam), S/o. Budhram Satnami, Aged About 60 Years, R/o. Village Pasid, P.H. No. 17 Nipaniya, Tahsil Bhatapara, District Baloda Bazar, Bhatapara, Chhattisgarh

---- Petitioner

Versus

1. Bhulin Bai, D/o. Budhu Satnami, Aged About 60 Years, R/o. Pasid, Tahsil Bhatapara, District Baloda Bazar- Bhatapara, Chhattisgarh.
2. State Of Chhattisgarh, Through the Collector, Baloda Bazar, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondents

 For Petitioner : Mr. Pushpendra Kumar Patel, Advocate
 For State : Mr. S.K.Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16.01.2018

Heard

1. This petition is against the order dated 04.05.2015 whereby the Court below has refused to allow the application under Order 6 Rule 17 of C.P.C. as consequential amendment.
2. Learned counsel for the petitioner submits that the amendment proposed was as against the amendment made by the respondent/plaintiff, therefore, in order to rebut and place the facts which would be necessary for the parties to get the written statement amended and in absence of such refusal, the pleadings of the parties shall remain unrebutted and consequently the same should have been allowed.
3. Perusal of the order of the Court below indicates that after the case was remanded by the trial Court to decide afresh, the amendment was proposed by the plaintiff/respondent, which was

allowed on 08.12.2016. Thereafter, a consequential amendment was proposed, which was dismissed. Irrespective of the merit of this case, at this stage, the amendment proposed cannot be said to be irrelevant when the same has been made as a consequential to the amendment made by the plaintiff. If the amendment of the plaintiff remains unrebutted, in such case, the right of the defendant shall be seriously prejudiced and eventually may invite the multiplicity of the proceedings at the later stage. In view of this, the order dated 04.05.2017 passed by the Civil Judge Class-I Bhatapara is set aside. The proposed amendment of the defendant and the application under Order 6 Rule 17 of C.P.C. is allowed. The amendment be incorporated within a further period of three weeks in the written statement, thereafter, the trial Court may further proceed and frame the issues and decide the case.

4. In view of the above, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
Judge