

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 208 of 2018**

Neelkanth Rathore, aged about 44 yers, S/o Shri Jeewrakhan Rathore, R/o-
Gatoura, Thana & Tahsil- Masturi, District – Bilaspur (C.G.)

----Petitioner/Plaintiff

Versus

1. Authorized Officer, Union Bank, Branch- Bilaspur, Near D.P. Vipra College,
High Court (Old) Road, Thana- Tarbahar, Tahsil & District – Bilaspur (C.G.)
2. Bhaiyaram Kurmi, aged about 41 years, S/o Late Bodhiram, Caste- Kurmi,
R/o – Village – Khogsra, Post – Belagahna, Thana & Tahsil – Kota, District
Bilaspur (C.G.)

---- Respondents/defendants.

For Petitioner	: Shri Neeraj Choubey, Advocate.
For respondents	: Shri Ashok Kumar Dubey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/12/2018

(1) By the impugned order dated 16.02.2018, trial Court has allowed the defendants' application under Section 151 of the Code of Civil Procedure (henceforth "CPC") to amend the affidavit under Order 18 Rule 4 of the CPC, against which instant writ petition has been filed questioning that order.

(2) Learned counsel for the petitioner / plaintiff would submit that once the case is at the final stage, the respondent-Bank cannot be allowed to amend the additional affidavit under Order 18 Rule 4 of the CPC and, therefore, the impugned order is liable to be set aside.

(3) Per contra, counsel for the respondent - Bank would submit that there is only mistake in mentioning the Khasra number in the additional affidavit filed under Order 18 Rule 4 of the CPC, that has rightly been permitted to be amended by the impugned order,

which does not call for interference in the instant writ petition.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone through the impugned order with utmost circumspection.

(5) After going through the material available on record, I am of the opinion that the trial Court is absolutely justified in granting application filed by the defendant/Bank permitting to file the additional affidavit under Order 18 Rule 4 of the CPC confining to correction of typographical error. However, the Branch Manager, Union Bank will remain present to be cross-examined by defendant No. 2 on 13th December, 2018 subject to payment of cost of Rs.2,000/- payable to the plaintiff.

(6) Parties are directed to appear before the trial Court on 13th December, 2018.

(7) With the aforesaid observations, the writ petition stands finally disposed of. No order as to costs.

(8) Copy of this order be sent to the trial Court for compliance and needful.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

