

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 462 of 2018

Sanjay Sahu S/o Devprasad Sahu Aged About 36 Years Village-
Kotarliya Station, Tahsil- Raigarh, District- Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. Manoj Beriwal S/o Vishnu Dayal, Aged About 37 Years
Occupation- Business,
2. Vinod Beriwal, S/o Subhash Beriwal, Aged About 29 Years,
Occupation
Both are R/o, Hatri Chowk, Raigarh, Tahsil And District- Raigarh,
Chhattisgarh.
3. Santosh Agrawal S/o Ganpat Lal Aged About 47 Years
Occupation Business, R/o Gandhi Ganj, Raigarh, Tahsil And
District- Raigarh, Chhattisgarh.
4. Kamal Agrawal, S/o Late Mahesh Agrawal Aged About 56 Years
Occupation- Business, R/o Village- Mahapalli, Tahsil And District-
Raigarh, Chhattisgarh.
5. State Of Chhattisgarh, Through Collector Raigarh, Chhattisgarh.,
District : Raigarh, Chhattisgarh

---- Respondents

For petitioner - Shri Amit Sharma, Advocate.
For State- Shri S.R.J. Jaiswal, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

17/05/2018

Heard.

1. Instant petition is against the order dated 16/04/2018 whereby application under Order 6 Rule 17 of CPC and application under section 45 of the Evidence Act has been dismissed.
2. Learned counsel for the petitioner submits that in specific performance of the suit an agreement was produced of which first page is of stamp and second page is on the plain paper. It is alleged that defendant has stated that he has signed the first page, however he has not signed the second page and fraud has been committed. Amendment to this effect was proposed to be brought by defendant was dismissed. It

is contended that on the first page of the agreement signature on the stamp paper is not disputed, however on the second page which is not stamp paper signature is disputed, therefore he submits that proposed amendment may be allowed.

3. Perused the amendment petition under Order 6 Rule 17 of CPC wherein at para 2 it is stated that defendant has proposed to amend entire sale agreement is forged and para 3 it is stated that one agreement which was executed only on one page signature was obtained. Para 2 of the amendment it appears that it is vague though it contradicts the averments made at para 3 of the written statement, therefore same cannot be allowed as it would amount withdrawal of the admission. With respect to para 3 wherein it is proposed that defendant has stated that one agreement which was executed only on the stamp paper signature were made, perusal of the sale agreement shows that it is of two pages and second page is not over the stamp. Therefore, taking into nature of amendment so proposed it appears defendant only pray to elaborate the facts which is already made in para 3 of the written statement. Consequently, proposed amendment at para 3 is allowed. Accordingly, order dated 16/04/2018 wherein entire application under Order 6 Rule 17 of CPC was dismissed is modified to the above extent. Petitioner at this stage do not press dismissal of the application under Section 45 of the Evidence Act and prays for liberty to raise appropriate ground if found feasible during evidence.

4. With the above observation, petition stands disposed of. Petitioner is at liberty to raise appropriate ground before the court below.

Sd/-

(Goutam Bhaduri)

JUDGE

