

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 115 of 2019**

Kunti Bai wife of Kartikram son of Jhaduram Nai, aged about 65 years, Resident of Village – Jodhapur Ward, Dhamtari, Tahsil and District – Dhamtari (Chhattisgarh).

---Petitioner
Plaintiff

Versus

1. Bindabai widow of Jhaduram, Caste – Nai, aged about 85 years, Resident of Village – Jodhapur Ward, Dhamtari, Tahsil and District – Dhamtari (Chhattisgarh) at present address – Post Office Ward, Amatalab Road, behind Shyam General Stores, Dhamtari, Tahsil and District – Dhamtari (Chhattisgarh).
2. State of Chhattisgarh, through the Collector, District – Dhamtari (Chhattisgarh).
3. Ahmed Raza son of Mohammad Doud, Resident of Amapara Ward, Dhamtari, Tahsil and District – Dhamtari (Chhattisgarh)

---Respondents
Defendants

For Petitioner	:	Mr. D. N. Prajapati, Advocate.
For Respondent No. 2/State	:	Mr. Sanjay Kumar Agrawal, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15.02.2019

1. By the impugned order dated 6.9.2018, petitioner/plaintiff's application seeking leave to amend the plaint has been rejected, against which instant writ petition has been preferred.
2. Learned counsel for the petitioner/plaintiff would submit that the trial court is absolutely unjustified in rejecting the application for amendment in the plaint, which is bad and unsustainable in law.
3. I have heard the learned counsel for petitioner/plaintiff and considered his submission and went through the record with utmost circumspection.

4. Petitioner/plaintiff filed a suit for declaration of title and for partition of suit land stating *inter alia* that she is title holder of the suit land and entitled for 1½ share in suit property. The suit was filed on 21.08.2012 and the said suit is pending for evidence since 24.09.2012 and till date the plaintiff has not produced her witnesses and even not filed her affidavit under Order 18 Rule 4 of the Code of Civil Procedure, 1908.

5. The petitioner/plaintiff filed an application for amendment in the plaint on 24.04.2018 claiming additional reliefs that sale deed in favour of Ahmad Raza dated 13.08.2012 be declared null and void, that application has been rejected by the trial court on merit as well as on the ground of delay.

6. The alleged sale made in favour of Ahmed Raza/defendant No.3 is prior to the filing of the suit i.e. on 13.08.2012 and thereafter application for amendment was filed without explaining the delay as to why amendment could not be filed right in time and even otherwise plaintiff has repeatedly taken adjournment for leading evidence for more than six years and granting amendment at this stage would amount to approving the delaying method resorted by the plaintiff/petitioner. As such trial court is absolutely justified in rejecting the application for amendment in the plaint and I do not find any illegality or perversity in the impugned order warranting interference under Article 227 of the Constitution of India.

7. Accordingly, the writ petition is liable to be and is hereby dismissed. No cost(s)

8. A copy of this order be sent to the trial Court by E-mail / FAX for compliance and needful.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-