

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 334 of 2019**

Chandahas Pandey S/o J. L. Pandey, aged about 50 years, Manager through C.G. Grih Vikas Grih Nirman Sahkari Samiti Bhilai-3, Charoda, District- Durg C.G., at present R/o D/406, Maitry Nagar, Raipur, Tahsil and District Raipur (C.G.)

---- Petitioner/Defendant No. 2

Versus

1. Pankaj Kumar Dwivedi, S/o Shiv Kumar Dwivedi, aged about 39 years, R/o Padum Nagar beside Hanuman Temple ward No. 17 Bhilai-3 Charoda, Tehsil Patan, District Durg (C.G.) **Respondent-plaintiff**

2. Chhattisgarh Vikas Grih Nirman Sahkari Samiti Mayadit, Bhilai-3 Charoda, District Durg C.G. (Registration No. /D.R. /D.R. G./89 Dated 25.06.1983) Office : Chhattisgarh Sadan, Shop No. 2, Sector : 1 Bhilai, Tahsil & District Durg (C.G.)Defendant No.1

3. State of Chhattisgarh through Collector, Durg C.G.Defendant No. 3

For Petitioner : Mr. Avinash Chand Sahu, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02.05.2019

(1) The application filed by the Petitioner/Defendant No. 2 for permitting amendment in his written statement has been rejected by the trial Court vide impugned order dated 03/04/2019 on the ground of delay, against which this writ petition has been preferred.

(2) Learned counsel for the petitioner/defendant No. 2 would submit that the trial Court is absolutely unjustified in rejecting the application for amendment as the

proposed amendment is purely legal in nature based upon Sections 88 & 94 of Chhattisgarh Cooperatives Societies Act, 1960 , therefore, impugned order is liable to be set aside.

(3) I have heard learned counsel for the petitioner/defendant No. 2, perused the impugned order and went through the record with utmost circumspection.

(4) The said application for amendment was filed at the time when hearing of the suit had not commenced and plea to be taken by way of amendment is totally legal plea based upon Sections 88, 94 of Chhattisgarh Cooperative Societies Act, 1960, therefore, trial Court ought to have allowed the said application, accordingly, the impugned order is set aside, subject to payment of cost of Rs. 3000/- to the respondent/plaintiff and amendment will be carried out within two weeks and the plaintiff would be at liberty to make consequential amendment in the plaint.

(5) Writ petition is allowed to the extent indicated herein-above. No order as to cost(s). The plaintiff is at liberty to make an application for modification of this order, if he feels aggrieved.

(6) A copy of this order be sent to the concerned trial Court for information and compliance.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-