

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 457 of 2018**

Nimish S. Agrawal, S/o Shri Sunil Agrawal, Aged about -37 Years, R/o- 1/45, Motilal Nehru Nagar (East) Bhilai, Tahsil & District – Durg (C.G.)
(Plaintiff)

----Petitioner

Versus

Ruhi Agrawal, W/o Nimish Agrawal, D/o Vijay Agrawal, Aged about-33 years, R/o- Deepak Nagar, Street No.-03, Durg, Tahsil & District – Durg (C.G.)
(Defendant)

---- Respondent

For Petitioner	: Mr. Manoj Paranjpe, Advocate.
For Respondent	: Mr. R.N. Jha, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/01/2019

(1) By the impugned order dated 09.04.2018, the plaintiff's application filed under Order 6 Rule 17 of the CPC seeking amendment in the plaint has been rejected by the trial Court against which this writ petition has been preferred.

(2) Learned counsel appearing for the petitioner would submit that the impugned order is bad and unsustainable in law as the trial has not commenced and the amendments sought to be made are necessary for just and proper disposal of the suit and, therefore, the impugned order be set aside.

(3) On the other hand, counsel for the respondent would support the impugned order and vehemently opposes the submissions so raised by the petitioner.

- (4) I have heard learned counsel for the petitioner and perused the impugned order.
- (5) Taking into consideration the fact that trial has yet not commenced; and application for amendment in the plaint was filed prior to commencement of trial; affidavit under Order 18 Rule 4 of the CPC has not yet been filed; and amendment sought to be made appears to be just & proper disposal of the suit, application for amendment in plaint is allowed subject to payment of cost of Rs.10,000/- to the respondent/wife. The respondent/wife is also entitled for consequential amendment in her written statement.
- (6) Accordingly, the writ petition is allowed in part. Impugned order dated 9.4.2018 is set aside.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

