

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Art. 227) No.694 of 2018

Manohar Nandwani, present aged 48 years, S/o G.M. Nandwani, R/o Gwalior Shoe, Near Deendayal Market, Power House Road, Tahsil and Distt. Korba (C.G.)

(Defendant)  
---- Petitioner

Versus

M.L. Kesharwani, aged about 67 years, S/o Munnalal Kesharwani, Retired Bank Officer, Vinoba Nagar, Shesh Colony, L-7, Tahsil and Distt. Bilaspur (C.G.)

(Plaintiff)  
---- Respondent

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For Petitioner: Mr. T.K. Jha, Advocate.  
For Respondent: Mr. Rohit Sharma, Advocate.

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Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/04/2019

1. By the impugned order, the defendant's application for amending the written statement has been denied against which this writ petition has been preferred.
2. Learned counsel for the petitioner / defendant submits that the trial Court is absolutely unjustified in rejecting the application, it is just and relevant for proper disposal of the suit.
3. Learned counsel for the respondent / plaintiff submits that the amendment is absolutely unnecessary for just and proper disposal of the suit and the trial Court has recorded reasons for rejecting the application.
4. I have heard learned counsel for the parties and considered their rival submissions and also went through the material available on record with utmost circumspection.

5. Through the suit was filed on 9-2-2015 and amendment application was filed with some delay, but before the commencement of trial, on 13-4-2018, the application for amendment in the written statement was filed and after rejecting the amendment application, the trial Court fixed the case for evidence on 8-9-2018. Considering the facts of the case and the necessity of amendment in the written statement, the impugned order dated 5-7-2018 to the extent of rejecting the amendment, is set aside and the defendant is permitted to make amendment in clauses 8 (a), (b), (c) and (d) of the written statement. The plaintiff will be entitled to make consequential amendment. However, it is made clear that the Court has not allowed the application for impleadment of Gajendra Shrivastava. It is submitted by the parties that the trial Court has almost concluded the trial. By this order, the Court has not granted any opportunity to the parties to lead further evidence. If the application is filed, the trial Court will consider the same in accordance with law.
6. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).
7. A copy of the order be sent to the trial Court by e-mail/fax.
8. Certified copy by tomorrow.

Sd/-  
(Sanjay K. Agrawal)  
Judge