NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 137 of 2020

1. Ganpat Das S/o Dular Das, Aged About 57 Years, Caste Panika and R/o Village Golabuda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
2. Roop Das S/o Dular Das, Aged About 62 Years, Caste Panika and R/o Village Golabuda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Petitioners/Plaintiffs

Versus

1. Artidas S/o Anup Das, Aged About 64 Years, Caste Panika and R/o Village Ongana, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
2. Dhobin Bai Wd/o Late Matlab Das, Aged About 60 Years, Caste Panika and R/o Village Ongana, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
3. Harimati D/o Anup Das, Aged About 50 Years, Caste Panika, R/o Village Balpeda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
4. Matiya Bai D/o Anup Das, Aged About 47 Years, Caste Panika, R/o Village Ghonchal, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
5. State of Chhattisgarh Collector, Raigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
6. Sanjay Kumar S/o Brijmohan Yadav, Aged About 30 Years, Occupation Agriculture, Caste Mahphul and R/o Village Golabuda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
7. Satish Kumar S/o Brijmohan Yadav, Occupation Service, Caste Mahphul and R/o Village Golabuda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
8. Minor Shivansh Yadav S/o Baleshwar, Aged About 9 Years, through his natural father Baleshwar Yadav S/o Banshidhar Yadav, Aged About 37 Years, Caste Mahphul and R/o Village Golabuda, Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

----Respondents/Defendants

For Petitioners – Shri Govind Dewangan, Advocate.
For State/Respondent No.5 – Shri Sudeep Verma, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-02-2020

1. The petition has been brought being aggrieved by the order dated 27-11-2019 passed by the trial Court dismissing the application filed by the

petitioners/plaintiffs praying for amendment in plaint filed in the civil suit.

2. It is submitted that the petitioners had earlier filed application for amendment which was allowed by the trial Court in which the petitioners had prayed that the entry in the revenue records were fraudulently made by the respondents side in collaboration with the revenue officials and on that basis the relief as prayed were also incorporated by amendment in the plaint. It is further submitted that the sale deed which has been challenged in its plaint, apart from the other lands which have been described in the Schedule A of the plaint also includes Khasra No.189/1 measuring 0.729 hectares which has been erroneously left out in the prayer made in the earlier amendment application, therefore, the same was prayed for before the trial Court which has been refused in an erroneous and arbitrary manner. Hence, it is prayed that this petition be allowed and the impugned order be interfered with.

3. Learned counsel appearing for State/respondent No.5 makes formal objection.

4. Heard learned counsel for the parties and perused the documents.

5. Considered on the submission made and perused the documents filed along with the petition. On perusal of the copy of the application filed under Order 6 Rule 17 of the CPC and also on perusal of the copy of the plaint which is also filed along with the petition, I am of this view that there was need of amendment only on one point which is prayed in the paragraph No.6, rest of the amendment prayed for are already present in the plaint. Learned trial Court has mentioned only reason that proposed amendment was not raised earlier for which there is no specific reason mentioned in the application. Therefore, after considering on the submission and the documents present in the petition, this petition is disposed off at the motion stage. The impugned order is set aside and the application filed by the petitioners under Order 6 Rule 17 is partially allowed. The learned trial Court is directed to permit the

petitioners/plaintiffs to incorporate amendment in the plaint only with respect to the amendment proposed in the paragraph No.6 of the application. It is also directed that the respondents side be granted opportunity to file application for consequential amendment if so advised by the counsel engaged by them.

6. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil