

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 177 of 2020

- Smt. Pratibha Pandey Wd/o Late Ghanshyam Pandey, Aged About 60 Years, R/o Maa Danteshwari Photo Copy Center, Collectorate Parisar, Jagdalpur, District Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh
Defendant No.1

---- Petitioner

Versus

1. Madhuri Pandey D/o Late Ghansyam Pandey, Aged About 40 Years, R/o Dharampura State Bank Colony, Jagdalpur, District - Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh (Plaintiff)
2. Kamaldev Jha S/o Sadanand Jha, Aged About 46 Years, R/o Azad Chowk, Danteshwari Ward Jagdalpur, District Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh
3. Smt. Prabhati Jha W/o Kamaldev Jha, Aged About 43 Years, R/o Azad Chowk, Danteshwari Ward Jagdalpur, District Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh (Defendant No.2 and 3)

--- Respondents

For Petitioner – Shri Shobhit Koshta, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-02-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 17-01-2020 by which the written statement filed by the petitioner/defendant No.1 has been taken out of record of the trial Court.
2. It is submitted that the impugned order passed is erroneous, arbitrary and illegal. The petitioner/defendant No.1 has opportunity to rebut the plaintiff's case, which has been denied, therefore, interference is prayed for.
3. Considered on the submission and also perused all the documents that are present along with the petition. As it appears that the petitioner along with other defendants had already filed written statement along with the other defendants in the form of counter claim, it has been held by the trial Court that filing of repeat written statement is not maintainable.

The civil suit was earlier dismissed by allowing the application of the defendants under Order 7 Rule 11 of the CPC. Subsequent to restoration of the civil suit, the fresh written statement has been separately filed by the petitioner/defendant No.1.

Order 8 Rule 6A of the CPC permits the defendant to set up counter claim against the claim made by the plaintiff, for which there is no requirement for filing separate written statement. As the written statement/counter claim that has been earlier filed by the petitioner and other defendants is present on record, therefore, if there is any need to incorporate other pleading for the sake of defence of the petitioner and other defendants, that can be incorporated by way of amendment in the same written statement/counter claim. Hence, the learned Court below has rightly held that filing of second written statement is not admissible which needs no interference.

4. Accordingly, the petition is disposed off. However, the petitioner is granted opportunity to file application for amendment in pleadings in her written statement/counter claim for the purpose of her defence. The learned trial Court is directed to consider on the same after affording opportunity to both the sides and pass order in accordance with law.

5. The petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge