

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.203 of 2020

- Smt. Basanti Devi Jain W/o Late Lunkaran Jain Aged About 64 Years Proprietor Of M/s L.K. Jain & Company, Address At Janak Bada, Mohadapara, Raipur, Chhattisgarh, Through Power Of Attorney Holder Shanti Kumar Jain, S/o Late Lunkaran Jain, Raipur, Tehsil And District- Raipur, Chhattisgarh

---- Petitioner

Versus

- Bloom Decor Limited 267 Oran, N.H.8, Prantij, District- Sabarkantha, Gujrat, Corporate Office At 2/F, Sumel S.G. Highway, Thatlej, Ahmedabad, Gujrat, 380059

---- Respondent

For Petitioner : Mr. Ankur Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

20-02-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 25.01.2020, passed by 2nd Additional District Judge, Raipur, C.G., in Civil Suit No.4-B/2015, by which the application filed by the petitioner/plaintiff under Order 14 Rule 5 of C.P.C. was dismissed.
2. Learned counsel for the petitioner submitted that after the completion of pleadings from both the sides, the learned Court framed issues on 30.09.2019, in which apart from the issue No.1, the burden of proof of the rest of the issues was on defendants. As the defendants have not filed any counter claim and claimed any reliefs, therefore, the application was filed by the petitioner for deleting the issues No.2, 3 and 4. The defendants by filing the reply acquiesced to the prayer made by the petitioner and made a statement that the issues No.2 and 3 may be

deleted by allowing the prayer of the petitioner. The learned Court below has without appreciating the facts and circumstances of the law has passed the impugned order which is erroneous and arbitrary. Therefore, interference is prayed for.

3. Considered on the submission and also perused the impugned order, the copy of plaint, the copy of written statement, the copy of issues and the copy of application filed by the petitioner and its reply filed by the respondents, I am of this view that the issues have not been correctly framed, however, it appears that the deletion of the issues No.2 and 3 as prayed was proper which should have been deleted and instead of that on the basis of the pleading made by the respondent side, one issue should have been framed as to whether the respondents are under any liability to make the payment as prayed for, as an alternative issue. The other issue regarding the damage to the prestige of the respondent company and claim of compensation appears to be proper. Therefore, the petition is disposed off at motion stage, the impugned order is interfered with, the prayer for deletion of issues No.2 and 3 is allowed and that be deleted from the draft of issues and one alternative issue as mentioned hereinabove may be considered to be framed by the trial Court.
4. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika