

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 213 of 2020

1. Manohar Patel S/o Late Sudhakar Patel, Aged About 54 Years Caste-Aghariya,
2. Lilaram Patel S/o Sudhakar Patel Aged About 49 Years Caste-Aghariya,
Both R/o. Village - Maohatikara, Thana And Tahsil- Pathalgaon,
District- Jashpur, Chhattisgarh.

---- Petitioners

Versus

1. Pawan Agrawal S/o Late Sadhurar Agrawal Aged About 64 Years R/o Village-Bajarpara, Pathalgaon, District- Jashpur, Chhattisgarh.
2. State Of Chhattisgarh Through- District Head, Jashpur, District-Jashpur, Chhattisgarh.

-----Respondents

For Petitioners	: Mr. Anand Kesharwani, Advocate
For Respondent No.2	: Mr. Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/02/2020

1. This petition has been brought being aggrieved by the order dated 07.01.2020 passed by the Court of Additional District Judge, Pathalgaon, District - Jashpur in Civil Appeal No.10-A/2019 by which the application filed under Order 6 Rule 17 of C.P.C. by the petitioners/plaintiffs has been rejected.
2. It is submitted that the petitioners had filed a civil suit No.5-A/2014, before the Court of Civil Judge Class-II, Pathalgaon, which was dismissed by the trial Court vide judgment dated 27.06.2018, which was challenged in Civil Appeal No.10-A/2019. It was during the pendency of appeal, the petitioners filed an application under Order 6 Rule 17 of C.P.C. along with other

application. The application for amendment was dismissed, however, the other applications have been allowed by the appellate Court and the case has been remanded to the trial Court to reconsider and pass the judgment afresh. It is submitted that the amendment prayed for is essential for the adjudication of the dispute between the parties, therefore, the impugned order be interfered with.

3. State counsel opposes the petition and the submission made in this respect.
4. As the case is at present pending before the trial Court and the petitioners have liberty to file an application praying for amendment before the same Court, therefore, this petition is disposed off at motion stage. Liberty is granted to the petitioners to file application for amendment in their plaint before the trial Court itself and the trial Court is directed to consider and decide the same in accordance with the merits and the provisions of law. The order of rejection passed by the appellate Court dated 07.01.2020 shall not come in the way of the decision of the application which will be filed by the petitioners before the trial Court.
5. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge