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HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 762 of 2019

- Jasraj Singh Babra S/o. Shri Jograj Singh Babra, Aged About 47 Years, R/o. Pratappur Naka, Ambikapur, Police Station and Post Ambikapur, District Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner/Plaintiff

Versus

1. Gita Kalha Wd/o. Late Sarvaraj Singh, Aged About 65 Years, R/o. Fundudihari, Ambikapur, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja Chhattisgarh.
2. Karan Singh S/o. Late Sarvaraj Singh, Aged About 35 Years, R/o. Fundudihari, Ambikapur, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja Chhattisgarh.
3. Kamna Kaur D/o. Late Sarvaraj Singh, Aged About 32 Years, R/o. Fundudihari, Ambikapur, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja Chhattisgarh.

Sarvaraj Singh (Since Died) legal representatives have already been brought on record.

4. Gurpreet Singh Babra S/o. Late Tejpal Singh Babra, Aged About 50 Years, R/o. Namnakala, Tahsil Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
5. State of Chhattisgarh Through Collector Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents/Defendants

For Petitioner – Mr. Anurag Singh, Advocate.

For Respondent No.4 – Ms. Priyanka Mehta, Advocate.

For the State/respondent No.5 – Shri Shrikant Kaushik, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-01-2020

Heard.

1. This petition has been brought being aggrieved by order dated 13-09-2019 passed by the trial Court in Civil Suit No.99A/2012 allowing the application filed by defendant No.2/respondent No.4 for amending the written statement and the counter claim of defendant No.2.

2. It is submitted that the application for amendment of the written statement and the counter claim has been filed with inordinate delay. The proposed amendment does not mention anywhere the date on which the

respondent No.2 was dispossessed from the disputed property. Therefore, the amendment is against the nature of the pleadings which were there earlier made by him, therefore, the order impugned is bad in law which is not sustainable.

3. Learned counsel for respondent No.4 opposes the submission and submits that the dispossession of respondent No.4 from the suit property is a subsequent event, therefore, this was a ground and reason for making a prayer for amendment and asking for additional relief. The learned trial Court has not committed any error. Hence, there is no ground for interference in this order.

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

5. The petitioner/plaintiff has filed a civil suit praying for relief of declaration and permanent injunction which has been contested by respondent No.4 who is defendant No.2 in the civil suit. The written statement was filed along with a counter claim claiming that respondent No.4 is in possession of the suit property and relief of permanent injunction was prayed for against the petitioner/plaintiff. This written statement was filed on 22-09-2012. The respondent No.4 have filed application under Order 6 Rule 17 of the CPC on 12-07-2019 praying for incorporation of amendment of his dispossession and also for prayer of additional relief of possession which has been allowed by the learned trial Court.

6. Considering that the prayer for amendment in pleading and additional relief has been made on the ground that it is a subsequent event the petitioner/plaintiff has liberty to rebut the same by bringing any consequential amendment, therefore, I do not find any error in the order passed. Hence, this petition is dismissed and disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge