

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 32 of 2021

- Kamaldev S/o Vishambhar Das, Aged About 43 Years, R/o H.No. LIG 117, Sector 2, Shankar Nagar, Raipur, Tehsil and District Raipur Chhattisgarh Plaintiff

---- Petitioner

Versus

1. Kailash S/o Bishwanta Bande, Aged About 38 Years, R/o Umariya, Post Rewa Lakhauli, Tehsil Arang, District Raipur Chhattisgarh Alternate Address V.V. Vihar, Road No.1, Doctor Bhimrao Ambedkar Ward No. 27, Mowa, Post Shankar Nagar, Raipur, District Raipur ChhattisgarhDefendant No. 01,
2. State Of Chhattisgarh through District Magistrate, Raipur, Tehsil and District Raipur ChhattisgarhDefendant No. 02

---- Respondents

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---- Respondents

For Petitioner – Shri Prasoon Agrawal, Advocate.

For State/Respondent No.2 – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-01-2021

1. Both these petitions have been brought against the order dated 07-03-2020 passed by the Court of District Judge, Raipur, Chhattisgarh in which the applications filed by the petitioner/plaintiff under Order 7 Rule 14 and under Order 6 Rule 17 of the CPC have been dismissed.
2. It is submitted by learned counsel for the petitioner in both the cases that the impugned order is erroneous. Learned District Judge has simply

refused to exercise the jurisdiction available to it under Order 7 Rule 14 and under Order 6 Rule 17 of the CPC. Therefore, prayer has been made to quash the impugned order and grant relief to the petitioner.

3. Respondent No.1 is yet to be summoned.

4. Learned State counsel representing respondent No.2 has made formal objection.

5. The petitioner has filed a civil suit praying for relief of specific performance of contract against respondent No.1 which is registered as Civil Suit No.192A/14. Pleading has been made in the plaint regarding execution of agreement dated 16-01-2012 and payment of advance amount to the respondent. This pleading has been categorically denied by respondent No.1 in written statement stating that it is burden of proof of the plaintiff. The application under Order 7 Rule 14 of the CPC was filed by the petitioner on the ground that the petitioner has obtained some documents under the RTI Act which are necessary for the petitioner/plaintiff to prove his case that the payment of advance money was made to respondent No.1. This application was opposed by respondent No.1 only on one ground that the application has been filed after substantial delay and it was on the same ground the application of the plaintiff was rejected by the Court.

Although there is delay in filing of this application by the petitioner/plaintiff, but on perusal of the copy of the documents filed along with the petition it appears that these documents may be relevant for the purposes of proof of the plaintiff's case. Therefore, a lenient view should have been adopted by the trial Court for the purpose of complete adjudication of the case. Hence, I am of this view that rejection of application under Order 7 Rule 14 of the CPC filed by the petitioner was not correct order. The trial Court had jurisdiction to entertain this application and admit the documents on record.

6. The application that was filed by the petitioner/plaintiff under Order 6

Rule 17 of the CPC has been dismissed by the impugned order mentioning that the proposed amendment appears to be submission of argument instead of any pleading. Therefore, the application was rejected.

Perused the copy of the application under Order 6 Rule 17 of the CPC filed by the petitioner and it is found that prayer has been made to incorporate as pleading in the plaint the submission that have been made in the application in paragraphs 1, 2, 3 and 5. It appears that the application filed is not in proper format and also the observation that has been made by learned District Judge that the proposed amendment appears to be more like submission of argument, therefore, I am of this view that no error was committed by the trial Court in dismissing this application.

7. On the basis of discussions made hereinabove and the consideration made on the submissions, WP227 No.32/2021 is allowed and the portion of the impugned order so far it relates to dismissal of the application under Order 7 Rule 14 of the CPC is quashed and it is ordered that the documents filed by the petitioner/plaintiff be taken on record so that the petitioner is enabled to prove his case against respondent No.1. WP227 No.33/2021 appears to be without any substance, which is dismissed at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge