

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.176 of 2020

- Mahavir Chand Chajed S/o Late Shri Mangilal Chajed, Aged About 48 Years By Caste Jain, By Occupation Business, R/o Bharkapara, Rajnandgaon, Post Mukam Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh

---- Petitioners

Versus

1. Gopal Daga S/o Late Shri Agyaram Daga, Aged About 58 Years By Caste Maheshwari, By Occupation Business, R/o Ramdihin Marg, Rajnandgaon Post And Mukam Tahsil And District Rajnandgaon Chhattisgarh
2. The State Of Chhattisgarh Through Collector, District Office, Tahsil And District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate.
For respondent No.1	:	Mr. B.D. Guru, Advocate.
For State/respondent No.2	:	Mr. Sameer Oraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16/08/2021

1. This petition has been brought seeking indulgence of this Court under Article 227 Constitution of India to interfere with the impugned order dated 01.02.2020 passed by the Court of District Judge, Rajnandgaon in Civil Suit No.25A/2012 by which the application of the petitioner/plaintiff praying for amendment in the plaint has been rejected.
2. The petitioner has filed Civil Suit praying for relief of specific performance of contract and other reliefs. During the pendency of the

Civil Suit, petitioner filed application under Order 6 Rule 17 of C.P.C. read with Section 155 of C.P.C. praying for amendment in the relief clause. The learned trial Court has rejected this application vide impugned order holding that the application filed is delayed and secondly, the reliefs are sought against the defendant No.2/State which is a formal party.

3. It is submitted by the learned counsel for the petitioner that the impugned order is erroneous and against the provisions of law, the amendment proposed did not change the nature of the suit and the amendment sought was necessary for the complete decision in the case concerned.
4. Reliance has been placed on the judgment of this Court passed in the case of Yoshodabai through L.Rs. Vs. Umashanker Gupta & Ors. reported in 2020 (3) CGLJ 497 and the judgment of Supreme Court in the case of Vijay Hathising Shah & Anr. Vs. Gitaben Prashottamdas Mukhi & Ors. reported in (2019) 5 SCC 360, prayer has been made for grant of relief.
5. Learned counsel for the respondent opposes the petition and submissions made and submits that the learned trial Court has rightly rejected the application under Order 6 Rule 17 of C.P.C., as the trial in Civil Suit is nearing completion and is at the stage of recording of defense evidence. The proposed amendment may change the nature of the suit filed by the petitioner.
6. Reliance has been placed on the judgment of Supreme Court in Vijay Hathising Shah & Anr. (Supra), in which the rejection order under Order 6 Rule 17 C.P.C. was affirmed on the ground that it was delayed and the hearing in the Civil Suit was at the final stage and also the amendment

proposed was not necessary. Therefore, the petition may be dismissed.

7. Heard learned counsel for the parties and perused the documents present on record.
8. In the amendment proposed, firstly the petitioner has sought relief of direction to the respondent/defendant No.02 to make mutation. Secondly directing the respondent No.01 to provide documents for registration of sale deed for specific performance of decree.
9. After considering on the submissions made by the learned counsel and looking to the amendment that is proposed by the petitioner side in the plaint, it is found that the reliefs that are sought by the proposed amendment against respondent No.02 are in fact regarding consequences of the decree, if it is passed in favour of the petitioner and usually in a case of specific performance of contract, if it is followed by a decree in favour of the plaintiff. In that case, the registration of sale deed and mutation are consequences, regarding which there is no specific requirement for grant of relief in that respect. Respondent No.2/State cannot be directed to facilitate the execution of decree, as it will be the burden of the plaintiff or the respondent No.1 to do their part, therefore, I am of this view that the amendment proposed by the petitioner in the plaint is unnecessary and without the same there shall be no impediment for the decision of Civil Suit between the parties. Hence, I do not find any valid reason to interfere with the impugned order. Hence, this petition is dismissed.
10. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge