

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 175 of 2021

- Mankunwar W/o Ramkumar, Aged About 50 Years, D/o Ramgulam, Caste Gond, Occupation House Wife, R/o Village Piuri, P.S. and Tahsil Ramanujnagar, Now District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
Defendant

---- Petitioner

Versus

1. Holsai, S/o Birsai, Aged About 50 Years, Mother Late Dashmet Bai, Caste Gond, R/o Village Piuri, P.S. and Tahsil Ramanujnagar, Now District Surajpur Chhattisgarh. Presently R/o Village Hardiwa P.S. and Tahsil Ramanujnagar, Now District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
2. Balkumar S/o Bhagatram, Aged About 60 Years, Mother Late Gedibai, Caste Gond, R/o Village Piuri, P.S. and Tahsil Ramanujnagar, Presently R/o Village Pampanagar, P.S. and Tahsil Ramanujnagar, Now District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
3. Chainsai S/o Late Asharam, Aged About 58 Years, Caste - Gond, R/o Village Piuri, P.S. and Tahsil Ramanujnagar, Now District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
Plaintiffs
4. State Of Chhattisgarh, Through The Collector, District (Now) Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
Defendant

----Respondents

For Petitioner – Shri Ashok Kumar Shukla, Advocate.

For State/Respondent No.4 – Shri Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-03-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 30-01-2021 passed by the trial Court in Civil Suit No.68A/2008 dismissing the application of the petitioner/defendant No.2 under Order 6 Rule 17 of the CPC and the order dated 02-02-2021 dismissing the application of the petitioner/defendant No.2 under Order 8 Rule 1 of the CPC.
2. It is submitted by learned counsel for the petitioner that on perusal of the plaint (Annexure-P/2) itself, it would be seen that the suit has been brought for partition, suppressing this fact that details of the entire property of the parties

was not included. This is very clearly pleaded in written statement by the petitioner that the Schedule A does not contain the entire property subject to partition between the parties. Therefore, amendment was sought in the written statement giving details of the other properties and this amendment was essential for complete adjudication of the dispute between the parties. Hence, the impugned order rejecting the amendment application is erroneous and illegal.

It is further submitted that in the application filed under Order 8 Rule 1 of the CPC the petitioner has sought production of additional documents which are certified copies obtained from the revenue records and there was no hindrance in allowing that application. The order of rejection on this application passed by the impugned order is also erroneous and unsustainable.

3. Considered on the submission.

4. Civil Suit No.68A/2008 was filed on 19-09-2008. The petitioner/defendant filed written statement on 27-10-2009. It was clearly pleaded by the petitioner in written statement, paragraph No.6, that the whole property of the joint family was not mentioned in the plaint and there is also one Schedule A attached with the written statement. On perusing the application of the petitioner dated 22-02-2020, it is found that the Schedule C which is proposed to be amended in the written statement is the same which is the Schedule A in the written statement, which is already present, further, there is no sufficient reason mentioned or ground raised in this application as to why this application should have been entertained or allowed after passing of 11 years from the date the written statement was filed. Hence, I find no reason to interfere with the impugned order dated 30-01-2021 by which the amendment application of the petitioner was dismissed.

Another application under Order 8 Rule 1 of the CPC which was filed on 07-01-2020 mentions that the petitioner/defendant wants to produce certified

copy of documents of revenue records. There is no reason given for delay and its explanation and regarding the relevancy of the documents which are sought to be produced, hence, the impugned order dated 02-02-2021 also does not suffer from any infirmity warranting interference of this Court. Consequently, this petition is totally devoid of any substance, which is dismissed at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge