

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 415 of 2020

1. Vishnukant Agrawal S/o Late Vyasnarayan Agrawal Aged About 58 Years R/o Shiv Talkies, Bilaspur Chhattisgarh
2. Shivkumar Shukla S/o Late Vyasnarayan Shukla Aged About 62 Years R/o Sarkanda, Bilaspur District Bilaspur Chhattisgarh

---- Petitioners

Versus

1. Shankar Lal Agrawal S/o Late Ramkrishna Agrawal Aged About 44 Years R/o Gandhi Chowk, Bilaspur Tehsil And District Bilaspur Chhattisgarh
2. Arvind Kumar Shukla S/o Late Vyashnarayan Shukla Aged About 50 Years R/o Muhda, Tehsil And District Janjgir Champa Chhattisgarh
3. Amrit Lal Agrawal S/o Late Vyasnarayan Agrawal Aged About 67 Years R/o Bus Stand, Baloda District Janjgir Champa Chhattisgarh
4. State Of Chhattisgarh Through Collector, Janjgir District Janjgir Champa Chhattisgarh

----Respondents

For Petitioners – Ms. Aditi Singhvi Advocate.

For State/respondent No.4 – Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-03-2021

Heard.

1. This writ petition has been brought being aggrieved by the order dated 17.12.2019, passed in Civil Suit No.08A/2007, by the Court of Civil Judge, Class- I Akaltara, District- Janjgir-Champa dismissing the application of the petitioner under Order 6 Rule 17 of C.P.C.
2. It is submitted by the learned counsel for the petitioner that respondent/defendant filed an application for amendment, which was

allowed by the trial Court on 07.09.2019. The petitioner did not move an application for consequential amendment, but the respondents/plaintiff have later on filed certified documents on 16.05.2019 and thereafter, this application was brought for amendment under Order 6 Rule 17 of C.P.C. The proposed amendment was essential for the adjudication of the dispute between the parties. The learned trial Court has rejected this application only for the reason, that it has been filed after a long delay making reference to the proviso to Order 6 Rule 17 of C.P.C. There is no such consideration as to whether the proposed amendment is necessary or not for the complete adjudication of the dispute between the parties. Hence, the impugned order is erroneous, which is liable to be quashed.

3. Reliance has been placed on the judgment of Supreme Court Case in **Baldev Singh & Ors. Etc. Vs. Manohar Singh & Anr.** reported in AIR (2006) 6 SCC 498.
4. Learned counsel for respondent No.4 has made formal objection.
5. Considered on the submissions. The Civil Suit has been filed by respondent No.1 against the petitioner and the other respondents praying for relief of declaration against the exchange deed in favour of the defendants and other reliefs. In the written statement filed by the petitioners, it was pleaded that the in Civil Suit No.9-A/1997, which has been dismissed and subsequent to that, First Civil Appeal No.335/1998 is pending in the High Court. The respondent/plaintiff sought amendment as additional pleading in plaint that the appeal pending in the High Court has been withdrawn on 22.06.2009 and therefore the judgment and decree dated 11.03.1998 has become final, this was allowed by the trial Court.

6. The petitioners/defendants have not moved any specific application for consequential amendment to the amendment brought by the respondent No.1/plaintiff. In the proposed amendment (in paragraph 5), the petitioner wants to plead that the judgment in first appeal is not binding upon him and the other proposed amendment appear to be repetition of the pleadings that are already present in the written statement. Similarly, the another proposed amendment in paragraph 5A is also a repeat of the pleading and written statement, which are present in paragraph 8 of the written statement, hence, I am of this view that the application under Order 6 Rule 17 of C.P.C. has been rightly rejected by the trial Court, which needs no interference by this Court. Hence, this petition is disposed off at the motion stage.
7. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge