

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P (227) No.439 of 2021**

Shakila Bano D/o Late Kutubuddin Aged About 56 Years Occupation - House Wife, R/o Village- Juna-Lakhanpur, Police Station And Tehsil - Lakhanpur, District - Surguja, Chhattisgarh. (Defendant No. 3 In The Suit), District : Surguja (Ambikapur), Chhattisgarh

----Petitioner**Versus**

1. Jasimuddin S/o Late Kutubuddin Aged About 56 Years Occupation - Agriculture, R/o Village - Juna- Lakhanpur, Police Station And Tehsil - Lakhanpur, District - Surguja, Chhattisgarh. (Plaintiff In The Suit), District : Surguja (Ambikapur), Chhattisgarh
2. Shamimuddin S/o Late Kutubuddin Aged About 61 Years Occupation - Agriculture, R/o Village - Juna-Lakhanpur, Police Station And Tehsil - Lakhanpur, District - Surguja, Chhattisgarh. (Defendant No. 1 In The Suit)
3. Jamiruddin S/o Late Kutubuddin Aged About 58 Years Occupation - Agriculture, R/o Village - Juna-Lakhanpur, Police Station And Tehsil - Lakhanpur, District - Surguja, Chhattisgarh. (Defendant No. 2 In The Suit)
4. State Of Chhattisgarh Through The Collector Surguja, District- Surguja, Chhattisgarh (Defendant No. 4 In The Suit)

-----Respondents

For Petitioner:	Shri Sushil Dubey, Advocate.
For Respondent No.1:	Shri AN Bhakta, Advocate.
For Respondent No.4/State:	Shri Wasim Miyan, PL.

Single Bench:Hon'ble Shri Deepak Kumar Tiwari J
Order On Board

14.12.2021

1. This is a Petition challenging the order dated 24.07.2021 passed by the 2nd Civil Judge, Class-2, Ambikapur in Civil Suit No.209-A/2015 whereby, the application under Order 6 Rule 17 CPC filed by the Respondent No.1/Plaintiff was allowed.
2. Brief facts of the case are that the Plaintiff has filed a civil suit for declaration of share and partition against the Defendants on 30.12.2015 for which, the Plaintiff has filed an application after more than 5 years from the date

of institution of suit for amendment in the pleadings by assigning the reason that the trial has not commenced and also the evidence of the Plaintiff witness has not started. As there would be no change in the nature of the suit, by way of the impugned order, the trial Court has allowed the application.

3. Learned Counsel for the Petitioner submits that as the application was filed very belatedly and the Plaintiff did not give proper description of the suit land and tried to fulfill the lacuna by the aforesaid amendment, which is contrary to law, therefore, it is prayed that the impugned order may be set aside.

4. It is well settled that under Order 6 Rule 17 CPC, the Court may, at any stage of the proceedings, allow either party to alter or amend his pleading for the purpose of determining the real questions in controversy between the parties and only delay is no ground for refusal of prayer for amendment.

5. In the Petition, the Defendant himself asserted that the proper description of the suit land was not mentioned, which is required under Order 7 Rule 3 CPC. Therefore, the trial Court has rightly assigned proper reason to allow the amendment application and this Court does not find any error or illegality in the same, therefore, the impugned order is affirmed and the instant Petition is liable to be and is accordingly dismissed.

Sd/-

(Deepak Kumar Tiwari)
JUDGE