

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No. 707 of 2021**

1. Pavitra @ Rambha D/o Late Rushbo W/o Shri Prahllad, Caste Kolta, aged about 52 years R/o Village Delari Tahsil and District Raigarh (C .G.).
2. Ahilya D/o Late Rushbo W/o Shri Jugeshwar, Caste Kolta, aged about 48 years R/o Village Jamgeon Basti, Tahsil and District Raigarh (C.G.).

---- Petitioners

Versus

1. Vinayak Gupta S/o Shri Ramesh Gupta, aged about 21 years R/o village Tapali, Tahsil and District Raigarh (C.G.) presently resident at Chhote Atarmuda, Tahsil and District Raigarh (C.G.).
2. Dayanidhi S/o Bhuwno, Caste Kolta, aged about 65 years R/o Village Patarapali, Tahsil and District Raigarh (C.G.).
3. The State of Chhattisgarh, through the collector, District Raigarh (C.G.).

--Respondents

For Petitioners	:	Mr. Roop Naik, Advocate
For Respondent Nos. 1 & 2	:	None
For Respondent No.3	:	Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Deepak Kumar Tiwari
Order on Board

15/12/2021

1. The instant writ petition under article 227 of the Constitution of India has been preferred against the order dated 22/11/2021 passed in Civil Suit No. A/30/2015 (Vinayak Gupta v. Dayanidhi) by the Second Civil Judge, Class-II, Raigarh whereby the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the petitioners has been rejected.
2. Brief facts of the case are that respondent No.1/Plaintiff filed a suit on 22/04/2015 for providing the land acquisition compensation from respondent No.3. The disputed agricultural land was purchased from

respondent No.2 by the plaintiff/respondent No.1 on 03/01/2013. Thereafter, the suit land was acquired for construction of railway line. The plaintiff/respondent No.1 has been deprived from compensation because the Tahsildar has rejected the mutation proceeding, therefore, the plaintiff/respondent No.1 filed a suit for declaration of title with regard to land bearing Khasara No. 609/1 area 0.036 hectare situated at village Tarpali, District Raigarh, in which the petitioners filed an application under order 6 Rule 17 of the CPC on 04/10/2021 for amendment in the written statement, stating therein that the State of Chhattisgarh was the necessary party and the plaintiff/respondent No.1 did not follow the prescribed procedure under Section 80 of the CPC and prayed to dismissed the suit. The trial Court, while holding that the prescribed party was not necessary, has rejected the application filed by the petitioners. Hence, this petition.

3. Counsel for the petitioner submits that the impugned order suffers from perversity and is liable to be set-aside. The amendment in the written statement is necessary to determine the issues and claim of the plaintiff/respondent No.1. So, he has prayed to allow this petition and set-aside the impugned order.
4. The main contention of the plaintiff/respondent No.1 in the suit was to declare the title in his favour and if the suit land is acquired for public purpose, so, the compensation should have been awarded in his favour
5. The state government had already been made party as defendant No. 3, so the contention made by the petitioners that the plaintiff had not

impleaded the state government as necessary party, is not properly ascertained.

6. In this Court also counsel for the petitioners fails to show that notice under Section 80 of the CPC is anyway necessary as no relief is directly sought from the Government. However, in the said application the pleading, required about ceiling is not made in the suit, has also been raised as the CPC has been amended vide Madhya Pradesh Act 29 of 1984 w.e.f. 14/08/1984. In any suit, other than the State government, shall plead the particulars of total agricultural land and shall also declare that the subject matter of the suit or proceeding is not covered by the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 as the said pleading is necessary in view of the said amendment, so the plaintiff was required to plead accordingly but the amendment proposed by the petitioner is not necessary for determining the real question in controversy between the parties. Therefore, this Court does not find any substance in the writ petitioner to interfere with the impugned order.
7. Accordingly, the writ petition fails and is accordingly dismissed.
8. Let a copy of this order be sent to the concerned Court for information and necessary action for amendment in the pleading as required vide MP Act 29, 1984 in Order 6 Rule 4A of the CPC

Sd/-
(Deepak Kumar Tiwari)
Judge