

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 2 of 2019

- Mirza Hafeez Baig (In Person), S/o Shri Mirza Haidar Ali Baig, Aged About 39 Years, Caste Musalman, R/o Chulghat Road, Takhatpur, District - Bilaspur Chhattisgarh --(Plaintiff)

---- Petitioner

Versus

1. Naim Khan, S/o Haneef Khan, Aged About 55 Years, Caste Musalman, R/o Musalman Mohalla, Takhatpur, District - Bilaspur Chhattisgarh.
2. Shabeer Ansari, S/o Sukurulla Ansari, Aged About 54 Years, Caste Musalman, R/o Musalman Mohalla, Takhatpur, District - Bilaspur Chhattisgarh., At Present Mugal Sarai Banaras, Uttar Pradesh.
3. Mumtaj Begum, W/o Saiyyad Abrar Ali, Aged About 56 Years Caste Musalman, R/o Nehru Nagar District - Bilaspur Chhattisgarh.
4. State of Chhattisgarh Through Collector, Bilaspur, District - Bilaspur Chhattisgarh. --- (Defendants).

---- Respondents

Petitioner in person	:	Mr. Mirza Hafeez Baig, Advocate.
For respondent No.1	:	Mr. Ravindra Sharma, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

23/03/2021

Heard.

1. This petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 20.9.2018 passed by learned Civil Judge Class-2, Takhatpur, District-Bilaspur, by which the application of the petitioner/plaintiff under Order 6 Rule 17 of the C.P.C. was dismissed by the trial Court.
2. It is submitted by the petitioner in person that the petitioner had proposed amendment in the plaint, on the basis of the subsequent development which was necessary to be impleaded and also for

claiming relief of possession, therefore, the order passed is erroneous and liable to be set aside.

3. Learned counsel for respondent opposes the submissions made by the petitioner in person and submits that this application for amendment has been filed very delayed, after completion of plaintiff's evidence, therefore, the filing of the application of amendment was not bonafide on the part of the petitioner/plaintiff. No error has been committed by the learned trial Court in rejecting this application.
4. Considered on the submissions. The pleading that is to be proposed on the basis of the subsequent development during the pendency of appeal has to be clear in this respect, so that the date, the arising of cause of action for claiming additional relief is clearly made out and also that the amendment proposed for additional relief is within limitation.
5. On perusal of the copy of application under Order 6 Rule 17 of CPC filed by the petitioner/plaintiff, it appears that the proposed amendment was not proper without the details of cause of action and also the limitation. Therefore, this petition is disposed off. There is no need to pass any order with respect to the impugned order. The petitioner/plaintiff is at liberty to file fresh application within 10 days under Order 6 Rule 17 CPC praying for amendment on the basis of the subsequent development that have taken place during the pendency of civil suit. The learned trial Court is directed to consider on the application and decide the same after giving opportunity both the sides in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge