
(2013) 12 MP CK 0131
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8010 of 2012

Ghanshyam

APPELLANT

Vs

Smt. Rajabeti

RESPONDENT

Date of Decision : 17-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0131

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : Servesh Sharma, for the Appellant; S.P. Bhatnagar, for the Respondent

Final Decision : Disposed Off

Judgement

Sheel Nagu, J.—This petition under Article 227 of the Constitution of India assails two decisions inter alia taken by the trial Court whereby an application under Order 8 Rule 3-A CPC of the defendant has been rejected for want of material particulars and an application under Order 6 Rule 17 CPC of the defendants for amendment in WS has also been rejected on the ground of the trial being at the stage of final arguments and that the amendment is not relevant to the issue involved. Learned counsel for the rival parties are heard.

2. Perusal of the impugned order indicates that the application of the defendant under Order 8 Rule 3A(3) CPC has been rejected for want of material particulars. The trial Court also found that the documents sought to be produced has no relevancy to the issue involved in question.

3. As regards the amendment application under Order 6 Rule 17 CPC preferred by defendant seeking amendment in WS is concerned, the Court found that the amendment is not necessary as it is irrelevant to the issue involved and also that the amendment is attempted to be made at the belated stage when the case is fixed for final arguments.

4. So far as the application under order 6 Rule 17 CPC is concerned, this court

cannot take an exception to the impugned order so far as it rejects this amendment application as the provision of Order 6 Rule 17 CPC casts a heavy burden on defendant that despite exercise of diligence the said amendment could not be made before the commencement of the trial. This burden has not been discharged by the defendant. Thus the impugned order so far as it relates to the rejection of the amendment application of defendant under Order 6 Rule 17 CPC is upheld.

5. As regards the application under Order 8 Rule 1(A)(3) CPC preferred by the defendant is concerned, the reason assigned by the Court is of lack of material particulars and, therefore, it cannot be said that the trial Court has transgressed its jurisdictional limits while rejecting the said application but that would certainly not for close the right of the defendant to make an appropriate application under Order 8 Rule 1(A)(3) by providing better particulars. In view of the above this petition is disposed of with the following directions:--

1. The impugned order so far as it rejects the application under Order 6 Rule 17 CPC filed by the defendant and the application under Order 8 Rule 1(A)(3) CPC is upheld.
2. However opportunity is granted to the defendant to move a fresh application under Order 8 Rule 1(A)(3) CPC by providing material particulars which if preferred within 30 working days from today be considered by the Court below, in accordance with law.
3. Nor order as to costs.