

(2018) 09 CHH CK 0368

Chhattisgarh High Court

Case No: Writ Petition(227) No. 817 Of 2018

Brijmohan Agrawal

APPELLANT

Vs

Madhukar Singhaniya

RESPONDENT

Date of Decision: Sept. 25, 2018

Acts Referred:

- Code Of Civil Procedure 1908 - Order 6 Rule 17

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Alok Pandey

Final Decision: Disposed Of

Judgement

Sanjay K. Agrawal, J

1. By the impugned order dated 25.08.2018 (Annexure - P/1), the trial Court has allowed the defendant's application under Order 6 Rule 17 of CPC

permitting amendment in the written statement against which this writ petition has been preferred by the petitioner/ plaintiff.

2. Learned counsel for the petitioner submits that only in order to delay the trial, the amendment application has been filed by the respondent /

defendant which has been allowed by the impugned order and even the trial has already been commenced.

3. I have heard learned counsel for the petitioner.

4. The suit is pending consideration since 28.07.2012 and therefore, even if the amendment is found to be proper and necessary for just and proper

disposal of the suit, the trial Court could have awarded the cost to the petitioner/ plaintiff which has not been done by the trial Court. Therefore, the

impugned order of the trial Court is partly upheld but it is modified and made subject to payment of cost of Rs.2,000/- to the plaintiff payable by the defendant on the next date of hearing. However, the defendant would be at liberty to move an application for modification of the order, if he is aggrieved.

5. As the suit is pending consideration since 28.07.2012, the trial Court is directed to conclude the trial expeditiously preferably within a period of four months from the date of receipt of copy of this order.

6. With the aforesaid observation, the writ petition is disposed of. No cost(s).

7. A copy of this order be sent to the concerned trial Court for needful and compliance.