

2. By this petition preferred under Article 227 of the Constitution of India, the petitioner/defendant has challenged the order dated 04.05.2023 passed in RCS A/5100105/2015 by XIth Civil Judge, Junior Division, District Indore whereby an application under Order 6 Rule 17 of the CPC preferred by him seeking leave to amend his written statement has been rejected.

3. The suit has been instituted by plaintiffs/respondents for eviction of the defendant from the suit premises on grounds *inter alia* of bona fide need. The claim has been contested by defendant by filing his written statement. The evidence of the plaintiff in the matter has been closed and the case is fixed for defendant's evidence.

3. During course of proceedings before the trial Court the amendment application was filed by defendant to plead that during pendency of suit the plaintiffs have acquired alternate accommodation and have also started carrying out business therefrom. The application was contested by plaintiffs and has been rejected by the trial Court upon holding that in view of the photographs filed along with the application the facts as regards the occupation of the alternate accommodation by plaintiffs has not been shown.

4. It is well settled in law that while considering an application for amendment it is only the pleading which is proposed which is required to be taken into consideration and the merits of the proposed amendment are not to be seen. In the present case, defendant has pleaded acquisition and occupation of alternate accommodation by plaintiffs during pendency of the suit. Even the trial Court has noticed the fact that amendment is based upon subsequent event but has rejected the application on the ground that the same is not substantiated. The proposed pleading in my opinion was not required to be proved by evidence at the present stage which would be a matter of evidence

subsequently.

5. Even though applications of defendant for amendment in the written statement have been allowed as well as rejected earlier but that is not a ground which has been taken by the trial Court for rejection of the application of the defendant. Moreover the proposed pleadings show that they are based upon subsequent events and appear to be just and necessary for fair and complete adjudication of all the dispute raised between the parties and deserve to be allowed.

6. Consequently, the impugned order dated 04.05.2023 passed by the trial Court is set aside. The application preferred by the defendant Under order 6 Rule 17 of the CPC stands allowed. However, looking to the fact that the eviction suit of plaintiffs is pending since the year 2015, it is directed that the trial Court shall make all possible endeavour and shall ensure that the trial itself is finally concluded within a period of three months from the date of receipt of certified copy of this order.

6. With the aforesaid, the petition stands allowed and disposed off.

(PRANAY VERMA)
JUDGE