

**CS NO. 15291/08**  
**RAKESH V. BHOLE**

**22.09.2018**

**Present:** Sh. Vivek Sharma, Ld. Counsel for all the plaintiffs.

Sh. R.B. Singh, Ld. Counsel for defendant no. 1, 3 to 8, 11, 15, 16, 22 and 23 alongwith defendant no. 5 in person.

Sh. Kuldeep Kasana, Ld. Proxy counsel for defendant no. 12.

Sh. Prem Chand, Son of defendant no. 20 in person.

Sh. Inderjit Singh, Son of defendant no. 26 in person.

None for defendant nos. 2, 9, 10, 13, 14, 17, 18, 19, 21, 24, 25, 27 and 28.

Reply filed on behalf of plaintiff to the application of defendant no. 12 u/Rule 17 of Order VI CPC for amendment of the WS.

Defendants who have not appeared are hereby proceeded ex-parte in the present application u/Rule 17 of Order VI CPC filed by defendant no. 12.

Arguments are heard on the application moved by the defendant no. 12 u/Rule 17 of Order VI CPC to amend the WS submitting that in the previous WS filed joint signature were taken by the defendant no. 25 in connivance with plaintiff.

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WS was got typed submitting that signature were taken for compensation under Land Acquisition proceedings. No such WS was contemplated by defendant no. 12. The defendant no. 12 was not aware about the present proceedings. No act of omission or objection is alleged in the plaint against the defendant no. 12 and no cause of action arises. The land has since been acquired as per claim of the plaintiff and possession was also taken over on 04.07.1988. Therefore the relief claimed by the plaintiff has become infructuous. The name of father of defendant no. 12 is 'Bahal Singh and not Behl Singh. The agreement to sell is denied which was admitted in previous WS. It is denied that defendant no. 12 had got the entries in revenue record corrected in respect of suit land for its sale. It is pleaded that time was essence of contract. The proposed agreement as alleged has no applicability in law and therefore it is void as plaintiff has not filed the applicable Court fees.

In reply Id. Counsel for plaintiff has submitted that the present amendment application cannot be allowed. It is submitted that there is joint WS filed by defendant no. 12 and by 14 other defendants. Total defendants in the said WS were 15. Ld. Counsel for plaintiff has referred to reply dated 03.08.2015 filed by defendant no. 12 to application of plaintiff u/Rule 9 of Order IX CPC at para no. 2 on merits wherein defendant no. 12 has admitted of having signed the WS under influence of intoxication.

The amended WS was filed on 20.04.2018 and

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previous to that WS was filed on 07.08.1997 filed on 14.08.1997 bearing verification clause and also signed by the Advocate for the defendants. Hence such clear admission on behalf of defendant no. 12 of having so signed the WS and that he has remained silent to the said respect for more than 20 years then at this stage the defendant no. 12 cannot be allowed to retract from the admission already made for execution of agreement to sell by their father with the plaintiff. Amendment will have effect of withdrawal of admitted pleading on record. The same cannot be allowed to be permitted at this stage. Plaintiff has also relied on citation titled Jai Singh Kanwar & Ors. v. Anil Goel at para no. 7 and 8 in RFA No. 764/18 from Hon'ble High Court of Delhi dated 11.09.2018 wherein withdrawal of admission of similar nature was not allowed to the legal heirs of the defendants in the said case regarding document executed by their father and which were remained unquestioned during lifetime of their father. In such view of the matter and for also for the same reason the application filed by defendant no. 12 at this belated stage cannot be allowed and found frivolous and stands dismissed.

Let parties to comply with previous order as to filing of amended plaint and necessary pleadings and thereafter matter be listed for further hearing for admission/denial and framing of issues on **27.10.2018**.

**(JOGINDER P. NAHAR)**  
**ADJ-04/CENTRAL/THC**  
**DELHI/22.09.2018**