

**Ahsanur Rahim Vs. Surender Kumar Tak (Deceased) & Ors.**  
**CNR No. DLCT010155882024**  
**CS (Comm) No. 1094/2024**

**11.09.2025**

Present : Plaintiff in person alongwith Sh. S.S. Nizami, Advocate.  
Sh. Lovelesh Tak @ Timsy, LR of deceased defendant  
No. 1 in person for himself as also for defendants No. 2  
to 6 and proposed defendant namely Ms. Shaila  
Qureshi alongwith Sh. M. Mohtaram, Advocate.  
Sh. Deepak Gulati, AE (B), MCD on behalf of defendant  
No. 7 / MCD alongwith Sh. Ashutosh Gupta, Advocate.  
Defendant No. 8 is already deleted from the array of  
defendants vide order dated 7.12.2024.

Heard. File perused.

Status report has already been filed on behalf of  
Executive Engineer (B)-I, CSPZ, MCD / defendant No. 7.

Having gone through the said status report and keeping in  
view the submissions made by Ld. Counsel of defendant No. 7 / MCD  
and in the interest of justice, defendant No. 7 / MCD is granted one  
week's time to file the requisite report before the Court.

Record shows that an application under Order 6 Rule 17  
read with Section 151 read with Order 1 Rule 10 CPC dated 5.5.2025  
moved by plaintiff, is pending disposal.

The defendants No. 1 to 6, as also the proposed defendant  
have already filed their joint written reply to the said application.

On instructions, Ld. Counsel of defendant No. 7 / MCD  
states at Bar that he does not wish to file any written reply thereto and  
appropriate orders on said application, as may be deemed fit, may be  
passed by the Court.

Accordingly, arguments on the aforesaid application heard. Record perused.

By way of this application, the applicant / plaintiff seeks to substitute Smt. Shaila Qureshi, instead of Sh. Waseem Raza who was previously impleaded as defendant No. 6 in this case. Besides that, the plaintiff seeks leave of the Court to give up / withdraw prayer No. (d) of the plaint in so far as it seeks decree of mandatory injunction in the form of direction to defendant No. 7 / MCD to take appropriate legal action like demolition, sealing etc. and to remove unauthorized and illegal construction raised over the suit property.

It is submitted by Ld. Counsel of plaintiff that due to oversight and inadvertence, the name of subsequent purchaser of suit property has been mentioned as Waseem Raza instead of Ms. Shaila Qureshi and thus, there is a need to substitute her in place of Waseem Raza, as defendant No. 6. He further submits that the name of defendant No. 8 i.e. concerned Sub-Registrar has already been deleted vide order dated 7.12.2024 of Ld. Predecessor of this Court and necessary amendment is to be carried out in the amended memo of parties in this regard. He further submitted that relevant changes is to be made in the relevant paras of the plaint in so far as defendant No. 1 is concerned in as much as said defendant has since expired and is now being represented by his legal heirs already impleaded on record. In this regard, he has also pointed out that the plaintiff wishes to change the name of defendant No. 4 (who has already expired) as the actual name of the said defendant is Smt. Pratima Tanvar and not Smt. Pratima Tawar. He submitted that the proposed amendments are formal in nature and no prejudice shall be caused to the defendants in

case the same is allowed.

Ld. Counsel of defendants No. 1 to 6, as also that of proposed defendant, on the other hand, has argued that the plaintiff should not be allowed to give up / withdraw any of the reliefs sought in the original plaint. According to him, the said defendants and proposed defendant have no objection in case the remaining amendments are allowed.

Needless to say that the plaintiff being *dominus litis*, is well within the right to give up / withdraw part of the relief(s) sought in the plaint, unless and until the opposite side is able to show that any serious prejudice would be caused in the event of withdrawal of any such relief or withdrawal of such relief may lead to miscarriage of justice. None of the such situation is shown to be present in this case. That being so, the aforesaid submission is found to be devoid of any merit.

Having gone through the proposed amendments sought by plaintiff in the light of case set up by him in the original plaint, this Court is of the view that all the proposed amendments are either formal in nature or are in the form of clarificatory in nature and shall not change the nature or character of the present suit in any manner. Further, Court finds that the proposed amendments are necessary for determination of the real controversy involved between the parties. Moreover, the matter is still at initial stage and even issues have not yet been framed in this matter.

In view of the foregoing discussions, **the amendment application is hereby allowed and also Ms. Shaila Qureshi is substituted as defendant No. 6 in place of Sh. Waseem Raza. The**

**proposed amended plaint filed therewith, is taken on record.** The plaintiff is permitted to file fresh and proper amended memo of parties on record within two weeks from the date of this order, with the direction to supply advance copy thereof to the opposite sides. The application stands disposed off in these terms.

On instructions, Ld. Counsel of defendant No. 7 / MCD states at Bar that he is adopting the same written statement as has already been filed to the original plaint and no amended written statement is to be filed on their behalf. The said request is accordingly allowed and the written statement of MCD as is already available on record, be treated as written statement to the amended plaint.

Ld. Counsel of remaining defendants seeks and is granted three week's time to file written statement to the amended plaint, alongwith Statement of Truth and admission / denial affidavit of documents of plaintiff, with the direction to supply advance copies thereof to the opposite side. Thereafter, the plaintiff may file replication, if any thereto, alongwith admission / denial affidavit of documents of defendants, if so filed, within next one week thereof, with the direction to supply advance copies thereof to the opposite side.

Put up on 10.10.2025 for completion of pleadings, first case management hearing as well as for framing of issues.

The date is given as per mutual consent of both the sides.

**(Vidya Prakash)**  
DJ (Commercial)-01, Central,  
THC/Delhi / 11.09.2025