

**4 CS (COMM) 1094/24**  
**AHSANUR RAHIM Vs. SURENDER KUMAR TAK**  
**DECEASED**

14.11.2024

Present:- Sh. S.S. Nizami, Ld. Counsel for plaintiff.

Ld. Counsel for plaintiff has filed an application under Order VI Rule 17 CPC for amendment of the plaint.

Since summons of the suit have not yet been issued to the defendants, no need to issue notice of the instant application.

Arguments heard.

Ld. Counsel for applicant/plaintiff submits that plaintiff earlier filed an application under Order VI Rule 17 CPC but he withdrew the same due to technical defects but the amended plaint which he already filed with the said application will remain same. He further submits that initially the suit was filed as ordinary civil suit but same was returned by Ld. ADJ vide order dt. 23.08.2024 being commercial dispute and thereafter, he file the same again & case was assigned to this Court. He further submits that plaintiff wants to amend the title of the suit, which shall now be as under :-

“COMMERCIAL SUIT FOR DECLARATION,  
MANDATORY AND PERMANENT INJUNCTION  
AND IN ALTERNATIVE RECOVERY OF SUM OF  
RS. 27,40,000/- PLUS COMPENSATION /  
DAMAGES”

Contd...2/-

He further submits that plaintiff also wants to amend the heading of the case from:

IN THE COURT OF DISTRICT JUDGE, CENTRAL DISTRICT, TIS HAZARI COURTS, DELHI SUIT NO.491 OF 2024 from pages No.3, 4, 27, 29, 31, 35, 37 to :

"BEFORE THE COURT OF DISTRICT JUDGE (COMMERCIAL COURTS) CENTRAL DISTRICT, TIS HAZARI COURTS, DELHI, C.S. (COMM.) NO.1094 OF 2024"

He further submits that plaintiff, apart from the said amendment, also wants to sign the bottom of each page of the pleadings and also wants to file additional Statement of Truth in order to make it applicable as per Commercial Courts Act and also wants to file additional list of documents/index as per the Commercial Courts Act.

He further submits that plaintiff also wants to incorporate the amendments in the body of plaint and wants to amend the prayer clause No.(a) in the following manner:

(a) a decree of declaration thereby declaring the Sale Deed dated 20.04.2023 executed in favour of defendant No.6 by the defendants No.1 to 5 as illegal, null & void and not binding upon the plaintiff in respect of the suit property bearing No.4754, Ahata Kidara, Pahari Dheeraj, Sadar Bazar, Delhi-110006 as more particularly shown in the red colour in the site plan annexed herewith and in alternative, a recovery of sum

Contd...3/-

of Rs.27,40,000/- may kindly be passed in favour of plaintiff and against the defendants No.1 to 6 towards the amount spent by the plaintiff in the construction as well as towards getting the property vacated from the occupants/tenants of the suit property i.e. property bearing No.4754, Ahata Kidara, Pahari Dheeraj, Sadar Bazar, Delhi- 110006 as more particularly shown in the red colour in the site plan annexed herewith;

Ld. Counsel for plaintiff further submits that plaintiff also wants to amend the para No.23, which shall now be as under :-

23. That after the withdrawal of suit, the plaintiff confronted the said defendants No.1 to 6 and informed about their earlier agreement with the plaintiff and also informed regarding the fact of spending a handsome amount by the plaintiff over the said property to which the said defendants No.1 to 6 who had thereafter again orally promised the plaintiff in the month of April 2024 to adhere the terms and conditions of the original Collaboration Agreement freshly or they will return the entire amount spent upon the said construction and amounts spent in getting the premises vacated but thereafter the plaintiff several times visited and tried to contact the said defendants who tried to evade the said meetings as such when the defendants failed to oblige to their fresh promises/agreement, the plaintiff strongly

Contd...4/-

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confronted the said defendants No.1 to 6, thereafter they flatly refused for any such negotiations and thereafter the intention of the said defendants became more adamant and bold and they started threatening the plaintiff specially the defendants No.1 to 6 that they will not give the plaintiff a single penny and will illegally grab the property and if they are further pressurize then they will further create third party interest in the suit property after forcibly dispossessing the plaintiff and his family members from the portion of suit property which are in their settled possession of the plaintiff in which plaintiff after taking the possession from the old occupants in terms of the collaboration agreement is residing alongwith his family members. The relevant proofs and ID proofs of the possession of the plaintiff and his family members as well as the photographs showing the possession of the plaintiff and his family members over the suit property are also annexed herewith for kind perusal of this Hon'ble Court.

He further submits that the case is at very initial stage as no notice has been issued to the defendants and the present amendments are formal in nature and has been done to fulfill the requirements of Commercial Courts Act and no prejudice would be caused to the defendants, if the said amendments are allowed.

Contd...5/-

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I have heard submissions and gone through record.

Considering the facts and circumstances that the case is at nascent stage and amendment does not change the nature of the suit. Further, it is settled law that application under Order VI Rule 17 CPC for amendment of plaint should be taken liberally, therefore, in the interest of justice, I allow the application and take amended plaint on record.

Ld. Counsel for plaintiff further submits that plaintiff has filed an application u/o 39 Rule 1 & 2 CPC for grant of ad-interim stay, therefore, there is no need for pre-institution mediation and prays for dispensing with the requirement of pre-institution mediation.

Let summons of the suit be issued to defendants on filing of PF / RC-AD as well as through electronic modes for 07.12.2024. Steps be taken within 3 days.

(Sanjeev Kumar Aggarwal)  
District Judge (Commercial Court)-01,  
Central, Tis Hazari Courts,  
Delhi/14.11.2024