

CS 297/19

USHA DEVI AND ORS Vs. SANDHYA JOSHI AND ORS

08.08.2023

Present: Sh. Santosh Pratap Singh, Ld counsel for the plaintiff along with the plaintiff.

Ms. Shreya Chanda, Ld counsel for defendant no. 1.

Defendant no. 2 is yet to be served in the present matter.

Considered the last orders.

Though the plaintiff had filed an application seeking to pursue the present suit as an indigent person, however, the said application was withdrawn vide the last orders. Plaintiff has also moved an application seeking amendment of the plaint and the proposed amended plaint has been filed today. Copy supplied.

As far as application u/O 6 Rule 17 CPC is concerned, Ld counsel for defendant no. 1 states that she has no objections if the same is allowed and the amended plaint is taken on record as the only change in the plaint is qua the jurisdiction/valuation clause. Nonetheless it is also stated that as the application u/O 33 CPC was not disposed of by the Ld Predecessor of this court and prior to disposal of the said application, defence of defendant no.1 was struck off on account of non filing of WS, defendant no. 1 may be given an opportunity to file the WS. I do find merits in the submissions made by Ld counsel for defendant no. 1. The suit could not have proceeded further unless the application u/O 33 CPC was disposed off first. Accordingly order dated 20.04.2022 stands recalled. As the amendment application stands allowed and the proposed amended plaint is taken on record, defendant no. 1 may file WS

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within 30 days from today with advance copy to the plaintiff who may file replication, if any.

Summons of the amended suit be issued to defendant no.2 on account of filing of PF and RC. Steps to be taken within two weeks.

Relist the matter now on 11.01.2024.

Let the court fees be filed within one week from today.

(Gaurav Rao)
Additional District Judge-03
Patiala House Courts, New Delhi
08.08.2023