

**CS 587/17**

**HAWA SINGH Vs. RANDHIR SINGH RANA**

**26.04.2022**

Present: Sh. AN Aggarwal , Ld counsel for the plaintiff.  
Sh. Sanjay Gupta, Ld counsel for LR's of the defendant.

In the present matter, the issues are stated to have been framed vide order dated 07.02.2019, however, no witness has yet been examined and it is submitted that an application u/O 6 Rule 17 CPC for amendment of clerical mistakes in the written statements filed on behalf of the defendant is pending.

Arguments on the application u/O 6 Rule 17 CPC moved on behalf of defendants heard.

It is submitted by Ld counsel for the defendants that the defendant has categorically mentioned in para 1 of the WS that the defendant no. 1 is the sole and absolute owner of property bearing no. 57, Khasra No. 512, Village Rangpuri, New Delhi vide registered sale deed dated 05.05.1982 and that the said property was mutated in his favour in the revenue record vide mutation no. 589 missile no. 1667 dated 26.05.1982, however, in the subsequent paras i.e., para 10, 20 and 21 of the written statement, the word 'plaintiff' instead of 'defendant no.1' is used to denote the real owner of the property in question and for rectification of the aforesaid clerical mistake the instant application u/O 6 Rule 17 CPC has been filed. Ld counsel for the defendants also submits that no additional issue need be framed consequent to the instant application and the trial has not yet commenced since no witness has been examined and no

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prejudice will be caused to the opposite party by allowing the present application and he submits that the instant application u/O 6 Rule 17 CPC may be allowed and the amended WS has been filed alongwith instant application.

Per contra, Ld counsel for the plaintiff submits that the instant application has been filed after a delay of 20 months from the date of filing of written statement by the defendants and he submits that in fact the plaintiff is the owner of the property in question and he has also relied upon the sale deed and MOU regarding the property in question. Ld counsel for the plaintiff submits that the replication and an application u/O 12 Rule 6 CPC was filed by him and the reply to the aforesaid application was also filed by the defendants but no rejoinder to the replication was filed by the defendants. Ld counsel submits that both the parties are claiming themselves to be the owner of the property in question on the basis of their respective documents and the amendment may not be allowed and the suit filed by the plaintiff is liable to be decreed in terms of the admissions made by the defendants in para 10, 20 and 21 of the written statement.

In the case in hand, the plaintiff has filed the suit for possession and injunction and he is claiming his right over the property in question on the basis of alleged sale deed and MOU whereas the defendant no. 1 has claimed himself to be the sole and absolute owner of the property in question on the basis of registered sale deed dated 05.05.1982 and mutation dated 26.05.1982. The defendant no. 1 has categorically claimed his title over the suit property in para 1 of the written statement and consequently the word 'plaintiff' which is used in

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para no. 10, 20 and 21 of the written statement to denote the owner of the property in question seems to be a clerical mistake. Further, another suit bearing CS No.801/17 between the same parties regarding the same property in question is also pending wherein both the parties are claiming their respective rights regarding the property. Further, Ld Predecessor vide order dated 07.02.2019 disposed of the application u/O 12 Rule 6 CPC moved on behalf of the plaintiff seeking judgment on the basis of admissions made by the defendants in para 10, 20 and 21 of the written statement and the aforesaid application was dismissed by Ld Predecessor.

Considering the facts and circumstances, I am of the opinion that so far as the claim of parties regarding the title of the suit property is concerned, the same is required to be proved by leading evidence before the Court and the clerical mistakes in para 10, 20 and 21 of the written statement is liable to be rectified. Consequently the instant application u/O 6 Rule 17 CPC moved on behalf of defendant is liable to be allowed for just and fair decision of the present case and to decide the real question in controversy between the parties.

Hence, the instant application u/O 6 Rule 17 CPC stands allowed subject to cost of Rs. 2,500/- to be paid to the plaintiff.

At this stage, Ld counsel for the defendant paid the cost to Ld counsel for the plaintiff.

Amended WS filed on behalf of defendant be taken on record and Ld counsel for plaintiff shall be at liberty to file the replication within two months from today.

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The LR's of the deceased defendant shall file their affidavits in support of the amended WS on record within one month from today with advance copy to the opposite counsel.

No PW is present.

Put up for PE on **10.11.2022**.

**(Manish Khurana)**  
**Additional District Judge-03**  
**Patiala House Courts, New Delhi**  
**26.04.2022**