

05.05.2025

Present : Ms. Sunita Jain, Ld. Counsel for the plaintiff with plaintiff.
Sh. Pranav Sharma, Ld. LAC for the defendant with defendant.

1. On the LDOH, the plaintiff moved an application u/o 6 rule 17 CPC with proposed amended plaint. Copy already supplied.

2. It is submitted by Ld. Counsel for the plaintiff that by way of the present application, the plaintiff only seeks to add the alternate relief of recovery of double earnest amount. It is submitted that no other amendment is sought to be made. Hence, the application may be allowed.

3. Ld. Counsel for the defendant has opposed the application on the ground that the same has been filed after the framing of the issues. If the application is allowed, the same shall prejudice the defendant. The application is hit by delay and laches. Hence, the application may be dismissed.

4. Record perused.

5. In view of Proviso to Section 21 and Proviso to Section 22, Specific Relief Act as amended by the Amendment Act of 2018, such an amendment can be allowed by the court at any stage. In case titled as: **K.R. Suresh vs R. Poornima CIVIL APPEAL NO. 5822 OF 2025** decided on 02.05.2025, the Hon'ble Supreme Court has observed that:-

“56. The expression “at any stage of the proceeding” has been judicially interpreted to include the appellate stage as well, as affirmed by a catena of High Court decisions. This interpretation entails that that an amendment of the plaint to incorporate a prayer for the alternative relief

of refund of earnest money may be sought even during the first appeal from

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the original decree passed in a suit for specific performance. The non-obstante clause attached to Section 22(1) of the 1963 Act grants it an overriding effect, thereby excluding the operation of the Code of Civil Procedure, 1908. Further, the use of the word “shall” in the proviso to Section 22(2) imposes a mandate upon the court to allow the amendment of plaint, as sought by the party, at any stage. [See: Sahida Bibi v. Sk. Golam Muhammad, 1982 SCC OnLine Cal 59; Tarit Bhowmik v Mukul Day, 2014 SCC Cal 5361]”

6. In view of the same, the application is allowed. Amended plaint is taken on record.

7. Ld. Counsel for the defendant submits that he does not wish to file any amended WS. In view of the amendment done, an additoinal issue is framed as under:-

“Whether the plaintiff is entitled to the recovery of double earnest amount, in the alternative, as prayed for? OPP.”

8. It is submitted by Ld. Counsel for the defendant that the defendant no. 3 has now attained majority.

At this stage, PW-1 is examined in chief.

Now, to come up for cross examination on **22.09.2025**.

(RUCHIKA SINGLA)
DJ-03 (N/W)
Rohini Courts :Delhi/05.05.2025