

09.02.2024

Present : Sh. Animesh Sinha Adv., Ld. Counsel for plaintiff.
Sh. Ravi Kapoor Adv., Ld. Counsel for defendant through
VC.

Arguments heard at great length on application under Order
6 Rule 17 CPC for amendment of the plaint.

Issues have not yet been framed in the present case.

1. As per plaint, the plaintiff, a resident of USA has filed the present suit seeking declaration of the relinquishment deed dated 15.03.2022 in respect of the suit property executed by her through her special attorney Mrs. Deepannita Lodh, in favor of defendant/her sister to be revoked and declared as null and void.

2. Ld. Counsel for plaintiff submits that plaintiff wants to replace the word 'revocation' with the word 'cancellation' in the entirety of the plaint. Further, plaintiff wants to amend the title of suit to 'a suit seeking cancellation of the relinquishment deed dated 15.03.2022' and accordingly amend the prayer clause with further prayer to direct the defendant to deliver the relinquishment deed dated 15.03.2022 to this court, with directions to the Sub Registrar concerned for endorsement of cancellation in its books. He further submits that in the original plaint, though the suit has been valued at Rs.1.99 crores for the purposes of jurisdiction being the prevailing market value of the suit property, wherein court fees of Rs.200 was paid, by way of amendment, the plaintiff also wants to amend valuation paragraph to value the suit at Rs.4,00,000/- for the purposes of court fees & jurisdiction and to pay court fees of Rs.6500/- thereon.

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3. Ld. Counsel for plaintiff submits that the plaintiff has valued the suit as per section 7 (iv) (a) of The Court Fees Act and is at liberty to value it in the manner plaintiff wishes. Therefore, plaintiff has valued the suit at Rs.4 lakhs. He relies upon the judgment of **Kasturi Lal Jain vs Inder Prakash Jain 1998(46) DRJ 183(Delhi)** to contend that a relinquishment deed is being a document relating to title, and is a movable property, falls within the purview of section 7(iv)(a). Perused. He further argued that the amended of plaint has to be allowed in whole. He relied on **Mulk Raj Batra vs Distt. Judge (1982) 3 SCC 233**. Perused

4. On the other hand, amendment application is strongly opposed by Ld. Counsel for defendant submitting that by way of said relinquishment deed, plaintiff had relinquished all rights in the suit property including the possession. He argued that the plaintiff ought to have sought the possession of the suit property to seek complete consequential relief and should have valued the suit on the market value of the suit property which, as per original plaint, is Rs.1.99 crores and should have paid the ad valorem court fees. He argues that the reliance of plaintiff on section 7 (iv) (a) of The Court Fees Act is misplaced as the matter pertains to an immovable property and the case of the plaintiff would be covered by section 7 (iv) (c) of The Court Fees Act and the plaintiff was required to seek declaration with the consequential relief as well. He further argued that the plaintiff cannot be permitted to change the valuation in an arbitrary and whimsical manner by way of

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amendment. He relied upon Rampur Distillery & Chemicals Co. Ltd. Vs Union of India 1995 SCC OnLine Del 24, Suhrid Singh vs Randhir Singh (2010) 12 SCC 112, Uma Shankar vs Anand Prakash 2018 SCC OnLine Del 12867 and Anathula Sudhakar v P. Buchi Reddy (2008) 4 SCC 594. Perused.

5. So far the amendment of replacing the word ‘revocation with cancellation, and the amendment of prayer from ‘Declaration’ to seeking Cancellation of the relinquishment deed dated 15.03.2022 is concerned, the same is permitted and is as per the requirement of law. The judgment of **Surhid Singh(Supra)** in para 7 also held that where the executant seek to nullify a document, a prayer for cancellation of the said document is required. To that extent, amended need to be allowed.

However, so far as the valuation of the amended plaint is concerned, the plaintiff seeks to value the plaint at Rs. 4 Lakhs on the strength of the judgment of **Kasturi Lal(Supra)** which holds that cancellation of a relinquishment deed falls within the ambit of section 7(iv)(a) of The Court Fees Act. In my considered opinion, the valuation of such plaint has to be as per the judgment of **Suhrid Singh (Supra)** para 7 thereof specifically deals with such eventuality. It holds that If the Form is different, so is the court fees. If the executant seeks to cancel the deed, he has to pay ad valorem court fees. Even if the stand of the plaintiff is taken to be correct and plaint is valued under section 7(iv)(a) of The Court Fees Act, the plaintiff, though at liberty to value the suit, but cannot value it whimsically and in an arbitrary manner. Once the plaintiff has valued the

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suit at Rs. 1.99 Crores as the market value of the suit property, there is no basis of giving the valuation of Rs. 4 Lakhs. In this regard, judgment of **Rampur Distillery (Supra)** relied upon by Id. Counsel for defendant can be relied upon whereby it is held that if the valuation put by the plaintiff is arbitrary and unreasonable, and the disparity is so great and shows that the plaintiff has not fixed fair value at all, the court can exercise its power under Order 7 Rule 11 CPC to correct the value. Once the plaintiff herself has given the value at Rs. 1.99 as the market value of the suit property, the change of valuation to an arbitrary amount of Rs. 4 lakhs can't be permitted.

6. Notwithstanding the fact that at this stage, the court is not required to go into the veracity of the amendment sought, arbitrary amendments to the plaintiff can not be permitted and dismissal of the amendment application on this ground is also not a justified and desired course.

7. As per plaint, read with relinquishment deed dated 15.03.2022, Plaintiff, a resident of USA, inherited the suit property being no. K-2090, C.R.Park, New Delhi measuring 155 Sq. Yards jointly with her sister/defendant from her deceased parents and had executed the relinquishment deed dated 15.03.2022 through her special attorney Mrs. Deepannita Lodh, in respect of *her 1/2 undivided share therein*.

Therefore, Plaintiff is liable to value the suit at Rs.1.99 crores for the purpose of jurisdiction and for the purpose of court fees, the plaintiff is liable to pay ad valorem court fees in respect of her 1/2 share. The plaintiff is not required to seek possession of the suit property.

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8. Therefore, amendment application is disposed of and plaintiff is permitted to carry out the amendments in terms of the aforementioned directions. Plaintiff is directed to file amended plaint commensurate with the directions given above with advance copy being supplied to the opposite counsel.

9. The defendant is at liberty to file Written Statement to the amended plaint with advance copy being supplied to opposite counsel.

10. Put up for completion of pleadings, filing of affidavit of admission denial and for framing of issues on **05.04.2024**.

(Munish Markan)
ADJ-02/(SE), District Courts, Saket,
New Delhi/09.02.2024

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