

21CS-483/23

VIJAY KUMAR VS. SHRI SAI BHAKTA SAMAJ AND ORS.

12.02.2025

Present : Sh. Satendra Rai, Md. Hamid Hawari and
Sh. Narendra Kumar, Ld. Counsels for plaintiff
along with plaintiff.
Sh. Kunal Kalra, Ld. Counsel for defendants.

1. Fresh vakalatnama filed on behalf of defendants. The same is taken on record.
2. List for orders at 4.00 pm.

(Rahul Bhatia)
DJ-01 (South East) Saket Court
New Delhi/12.02.2025 (vg)

At 4.00 PM

Present : As before.

3. Today, the matter has come up for orders on application under Order XIV Rule 5 CPC filed by defendants.
4. Vide this application, defendants want to re-frame issue no.2 framed vide order dated 13.03.2024 which is as follows :
“Issue No.2 : Whether is entitled to compensation of amount of Rs.75 lakhs? OPP”
5. As per the said application, defendants wish that the present issue no.2 be re-framed as under :
“Issue No.2 : Whether is entitled to order of compensation as claimed in the prayer clause ‘B’ ? OPP”
6. Reply has been filed by plaintiff to the same.
7. Ld. Counsel for defendants has submitted that as per the

amended plaint, it is nowhere mentioned in the plaint that the plaintiff is entitled to a sum of Rs.75 lacs and as such, issue has been inadvertently wrongly framed. He further submits that as per prayer clause, no specific amount has been prayed and as such, amount of Rs.75 lacs cannot be part of the issue. He has further submitted that the issues can only be framed based upon pleadings and pleadings are silent on the aspect of the amount claimed and as such, no issue can be framed on such aspect. In view of same, defendants have sought re-framing of the abovesaid issue.

8. Per contra, Ld. Counsel for plaintiff has submitted that the plaintiff has claimed Rs.75 lacs for damages and has paid appropriate court fee for the same. He has further stated that after amendment, the plaintiff has incorporated the amount of Rs.75 lacs in the body of the plaint and as such the present application is devoid of any merit and deserves to be dismissed.

9. Submissions heard. Application perused.

10. The contention of the defendants is regarding the fact that the plaintiff has not specifically claimed the amount of Rs.75 lacs in the plaint and as such, the issue has not been correctly framed.

11. On going through the amended plaint, it is revealed that the plaintiff has valued the suit for the purpose of jurisdiction and compensation claimed as Rs.75 lacs in para 29 of the amended plaint. The plaintiff has mentioned that compensation claimed is Rs.75 lacs and has further stated that the same was not mentioned in the plaint or the prayer clause earlier and the same is now so amended.

12. Perusal of the prayer clause reveals that in prayer clause B,

no specific amount has been claimed. Further, going through the plaint, it is clear that the plaintiff has sought damages for compensation, due to mental agony, physical, economical and social trauma and has valued the suit for the said purposes at Rs.75 lacs. The plaintiff has also prayed for court fee on the amount of Rs.75 lacs. Although the plaint and prayer clause are not perfectly worded, at the stage for framing of issue, the whole pleadings have to be seen. As per the plaint, it is clear that the plaintiff has claimed compensation amount of Rs.75 lacs. As such, no infirmity is found in the issue already framed. However, if the amended issue is framed, this court would be required to decided what amount of compensation is to be paid to the plaintiff. As such, re-framing of issue would be futile exercise.

13. In view of the above discussion, the present application under Order XIV Rule 5 CPC is dismissed.

14. The matter be listed for PE **for 08.04.2025**.

(Rahul Bhatia)
DJ-01 (South East) Saket Court
New Delhi/12.02.2025 (vg)