

21.02.2026

Present : Ld. Counsel for plaintiff.
Sh. Kushagra Raj and Sh. Divyodit, Ld. Counsels for
defendant/MCD through VC.

ORDER

1. Vide this order, the present court shall decide the application under Order VI Rule 17 CPC seeking amendment of plaint filed on behalf of plaintiff.
2. The present application has been filed by the plaintiff under Order VI Rule 17 CPC seeking amendment of the plaint. The plaintiff has earlier filed the present suit for Permanent Injunction, Mandatory Injunction and Damages in respect of alleged unauthorized construction carried out by defendant no. 1.
3. It is the case of the plaintiff that the suit was filed on 05.08.2019 alleging that defendant no. 1 had raised unauthorized and illegal construction without any sanction from the concerned authority, which caused damage to the plaintiff's building and endangered the lives of the occupants. It is submitted that the plaintiff had filed an application under Order XXXIX Rule 1 & 2 CPC, and vide order dated 09.08.2019, defendant no. 1 was restrained from carrying out any further digging, excavation or construction work. It is further submitted that despite the said order, defendant no. 1 continued the construction and later sold different portions of the property to various persons.

4. The plaintiff further submitted that during the operation of the interim order, defendant no. 1 violated the same, and therefore an application under Order XXXIX Rule 2A CPC was filed, which is still pending adjudication. It is also stated that another order dated 16.11.2022 was passed directing the parties to maintain status quo with respect to the suit property. It is further submitted that since defendant no. 1 had sold portions of the property, the plaintiff filed an application under Order I Rule 10 CPC for impleadment of the subsequent purchasers. Vide order dated 08.01.2024, the said application was allowed and defendant nos. 3 to 10 were impleaded as parties to the suit. By way of the present application, the plaintiff seeks to incorporate additional paragraphs in the plaint mentioning:

- a) The interim order dated 09.08.2019 and its alleged violation.
- b) Filing of application under Order XXXIX Rule 2A CPC.
- c) Details of sale of portions of the property to defendant nos. 3 to 10.
- d) That defendant nos. 3 to 10 have stepped into the shoes of defendant no. 1 and are jointly and severally liable.
- e) The order dated 08.01.2024 allowing impleadment.
- f) A substituted paragraph regarding cause of action, including subsequent events and sale of property.

5. The plaintiff has stated that the proposed amendments are formal in nature and will not change the basic nature of the suit. It is further submitted that no prejudice will be caused to the defendants and that the plaintiff undertakes to pay additional court fee, if required. It is further submitted that the application has been filed stating that it is bona fide and in the interest of justice and that in case the amendment

is not allowed, the plaintiff will suffer irreparable loss. The plaintiff has prayed that the amended plaint be taken on record and that appropriate orders be passed in the interest of justice. The defendant has prayed for dismissal of the application with costs.

6. Reply has been filed on behalf of defendant no. 5 opposing the application under Order VI Rule 17 CPC. It is submitted that the proposed amendments are belated and have been filed after several years of institution of the suit. It is further submitted that the amendments merely refer to the progress of the suit and alleged violation of interim orders, which cannot be incorporated by way of amendment. It is also contended that the doctrine of lis pendens is not applicable and that the proposed amendments would amount to changing the cause of action. Prayer has been made for dismissal of the application with costs.
7. I have heard the arguments and perused the record carefully.
8. It is noted that the suit is still at an initial stage. The matter has not proceeded to the stage of evidence. The amendments sought by the plaintiff mainly relate to impleadment of defendant nos. 3 to 10 and consequential facts as arising from sale during the pendency of the suit. The present court is of the view that the proposed amendments are necessary for proper and effective adjudication of the real controversy between the parties. The amendments do not change the basic nature of the suit and are largely explanatory in nature.
9. The principles governing the amendment of pleadings are well established. Courts should generally permit such amendments when they are necessary for resolving the real issues in dispute between the parties, provided the amendments do not change the fundamental

nature of the suit or cause prejudice to the opposite party which cannot be compensated by costs.

10. Accordingly, the application under Order VI Rule 17 CPC is allowed. The amended plaint filed by the plaintiff is taken on record. defendants are granted liberty to file amended written statements, if any, within the statutory period.

11. Application is disposed of in the above terms.

12. Put up for completion of pleadings on 06.04.2026.

(Ambika Singh)
District Judge-01, South
Saket Court, New Delhi
21.02.2026