

**IN THE COURT OF MS. PURVA SAREEN,
DISTRICT JUDGE-01, SOUTH DISTRICT, SAKET
COURTS, NEW DELHI.**

Civil Suit No. 982/2018

In the matter of:

Mool Chand and Ors.	Plaintiffs.
Vs.	
Sanjeev Sagar and ors.	Defendants

01.08.2024

Present : Sh. V P Yadav, counsel for plaintiff with plaintiff.

Mohd. Habib, counsel for defendant no.1.

Sh. Ravi Kant Upadhyay, proxy counsel for
defendant no.2.

ORDER

1. Vide this order, I shall decide an application under Order 6 Rule 17 CPC filed on behalf of plaintiffs.

2. Plaintiffs have filed the present suit for possession, declaration, recovery of damages and permanent and mandatory injunction. It is stated that in the application that the matter is fixed for plaintiff evidence but on 15.09.2023 plaintiff came to know that defendants were demolishing the suit property in order to frustrate the relief sought by plaintiffs in the present suit.

3. Ad-interim relief was granted to plaintiff vide order dated 20.09.2023 but the defendants have caused substantial damage to the suit property by demolition during the pendency of the suit even without informing or taking permission of the court. Due to the acts of the defendants, the plaintiff has been put to substantial loss and want to incorporate additional para and prayer in the suit as stated in the application. Plaintiffs have sought damages to the tune of Rs.5 Lacs which the defendant are liable to pay for which amendment in the plaint and prayer is sought.

4. Reply to application under Order 6 Rule 17 CPC was filed by defendant no.2 who objected to the application stating that the plaintiff was trying to take additional pleas and was changing the entire nature of the suit which was not permissible under the law. The application has been moved to delay the trial and to mislead the court and there is no cause of action to file the same. It is denied that defendants have caused substantial damage to the suit property by partially demolishing it during the pendency of the suit and the plaintiff had to incur expenses to the tune of Rs.5 Lacs in repairing the suit property which the defendant are liable to pay to plaintiffs. It is also denied that cause of action further arose on 15.09.2023 when plaintiffs came to know about the demolition of the suit property by defendants. It is further stated that plaintiffs are adding additional paragraphs

and prayers just to counter the submissions made by the defendant in the written statement and requested for dismissal of the application.

5. Arguments heard and record perused.

6. Pleadings as such are statements made by plaintiff or defendant in their respective claims and responses and under Order 6 Rule 17 CPC the court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner as may be just and which is necessary to determine the real question in controversy. It is also held in several judgments that amendment should be allowed for ensuring justice, resolving disputes, avoiding delays and promoting fairness. And amendment should also be allowed when it causes no injustice to the other party and it is necessary to determine the real controversy.

7. On the other hand, it should not be allowed if it changes the nature of the case or introduces a new cause of action.

8. In the judgment of **Surender Kumar Sharma v. Makhan Singh**, the court held that “*this case emphasised that even if an application for amendment is belated, the crucial*

consideration is whether allowing the amendment would help resolve the real controversy between the parties. Order 6 Rule 17 CPC grants courts wide powers and unfettered discretion to allow amendments and delay along should not be a ground for refusing an amendment if it can be allowed”.

9. In case of **North Eastern Railway Administration, Gorakhpur v. Bhagwan Das**, the court highlighted the principles governing the granting or disallowing of amendments under Order 6 Rule 17 CPC. Amendments can be made at any stage of the proceedings and should be allowed if they meet two conditions: (a) they do not cause injustice to the other side and (b) they are necessary for determining the real issues in dispute between the parties.

10. In case of **Rajesh Kumar Aggarwal and Ors. v. K K Modi and Ors.**, it was clarified that courts should allow amendments to pleadings if they are necessary to determine the real issues in a case, as long as it does not harm the other party or cause prejudice. The rule under Order 6 Rule 17 has two parts: the first part gives the court discretion to order amendments, while the second part makes it mandatory for the court to allow necessary amendments to determine the true issues in dispute.

11. In case of **Revajeetu Builders and Developers v. Narayanaswamy and Sons** and Others, some key principles were outlined for considering applications for amendments:

- The amendment should be necessary for a fair resolution of the case.
- The request for amendment should be made in good faith.
- The amendment should not cause irreparable harm to the other party.
- Rejecting the amendment should not lead to injustice or multiple lawsuits.
- The proposed amendment should not fundamentally change the nature of the case.
- Generally, amendments should be declined if a fresh lawsuit on the amended claims would be time-barred.

12. It is observed that the amendment sought by the plaintiffs are not changing the real nature of the dispute neither any change in cause of action has been sought by the plaintiffs. In the opinion of the court, the purpose of Order 6 Rule 17 CPC is to advance the cause of justice. In fact, it is apparent from the application that the prayer sought could not have been pleaded earlier as there has been a change of facts and the alleged damage to the property was done during the pendency of the suit. Hence, new relief of damages did not exist at the time of filing of the suit.

13. Keeping in view above facts and circumstances, this court is of the opinion that the amendments sought in the suit are

necessary for just and proper adjudication of the suit. Plaintiffs have been allegedly put to loss and have been forced to amend the clauses as mentioned in the application due to the alleged illegal and arbitrary acts of the defendants. The amendments sought by plaintiff are not going to change the nature of the suit as the plaintiff have already claimed the relief of damages in the suit and plaintiffs shall suffer irreparable loss and injury if the amendments sought are not allowed by the court. In view of above observations, the application under Order 6 Rule 17 CPC is allowed and disposed of accordingly. No order as to cost.

14. Be listed for filing of amended written statement, if any, or for PE on 07.10.2024.

**(Purva Sareen),
District Judge-01, South,
Saket Court/ND/01.08.2024**