

22.12.2025

Present: Sh. Ajay Kumar, Ld. Counsel for plaintiff.  
None for defendant.

1. Vide this order this Court shall dispose of application under Order VI Rule 17 CPC r/w Section 151 CPC filed on behalf of plaintiff seeking amendment in pleading as well as prayer clause.

2. Briefly stated, originally suit for partition, possession with consequential relief of permanent injunction filed on behalf of plaintiff seeking following prayer :-

*“(a) A decree of partition, in favour of the plaintiff and against defendants the and thereby making partition by metes bounds in accordance with law in favour of the plaintiff against the defendants in respect of the suit property i.e. Near Shiv Mandir, Saini Mohalla, in Extended Laldora Abadi of Village-Shahbad as shown in red Mohammadpur, New Delhi colour in the site plan attached herewith, in the interest of justice.*

*(b) A decree of possession in favour of the plaintiff of his share and against the defendants of the suit property i.e. Near Shiv Mandir, Saini Mohalla, in Extended Laldora Abadi of Village-Shahbad Mohammadpur, New Delhi as shown in red colour in the site plan attached herewith, in the interest of justice.*

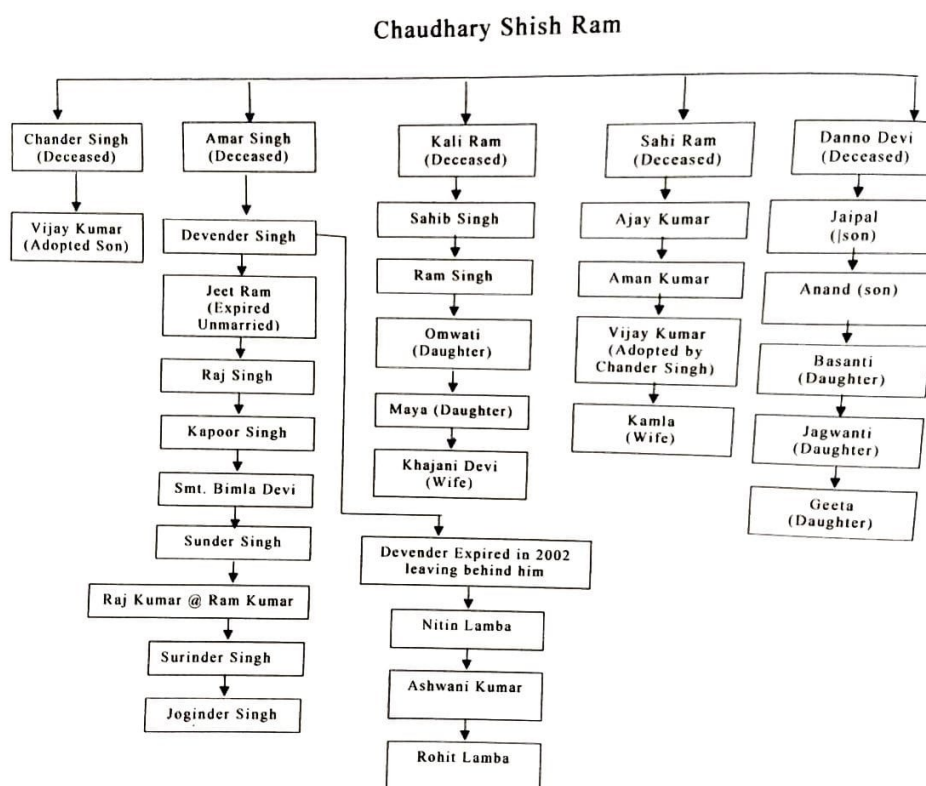
*(c) A decree of permanent injunction in favour of the plaintiff and against the defendants No.1 & 2 thereby restraining the defendants No.1 & 2, their associates, representatives etc. from raising illegal construction and creating third party interest of any kind in the above said*

suit property and as shown red colour in the site plan attached herewith, in the interest of justice.

(d) Cost of the suit may also be awarded in favour of the plaintiff and against the defendant.

(e) Any other relief which this Hon'ble Court fit may deem under circumstances of the the case facts and may also be granted in favour of the plaintiff and against the defendant, in the interest of justice.”

3. It is contended that common ancestor of the parties namely Chaudhary Shish Ram left for heavenly adobe leaving behind Sh. Chander Singh, Sh. Amar Singh, Sh. Kali Ram and Sh. Sahi Ram. It is further contended that pedigree of the parties of the suit is as follows:-

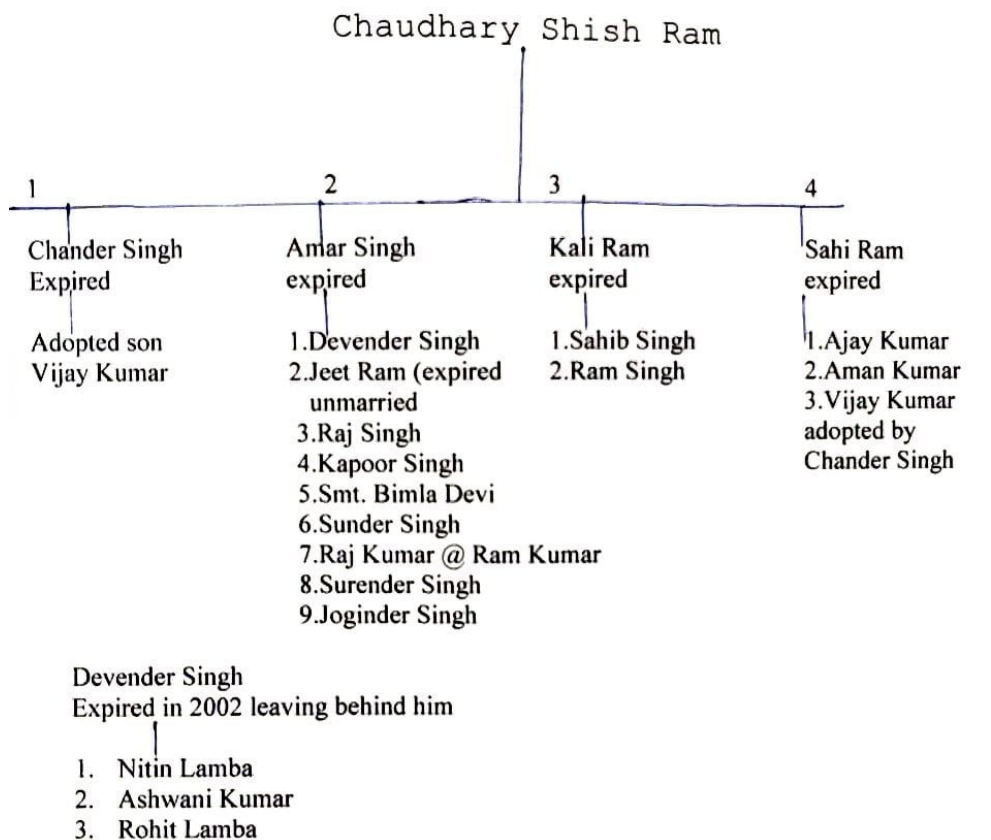


4. It is further contended that Late Chaudhary Shish Ram used to do money-lending to the *bona fide* persons and one Sh. Rattan Singh Saini mortgaged suit property i.e. vacant plot to Late Chaudhary Shish Ram during his lifetime. Thereafter, suit

for specific performance filed against Sh. Rattan Singh by the legal heir and decreed in their favour.

5. It is further contended that on 19.12.2018, plaintiff came to know that defendants no. 1 and 2 raising constructions on the suit property, whereafter, dispute arose and present suit is filed.

6. Perusal of record reveals that at the stage of consideration, plaintiff sought amendment with respect to pedigree as below and same was allowed vide order dated 21.01.2019.



7. Perusal of record further reveals that after issuance of summons, defendants entered appearance and filed WS, whereafter, again amendment sought on behalf of plaintiff vide

application under Order VI Rule 17 CPC and under Order I rule 10 CPC.

8. Perusal of record further reveals that upon service, defendants and proposed defendant did not objected to application under Order I Rule 10 CPC as well as under Order VI Rule 17 CPC. In view thereof, same was allowed vide order dated 16.04.2019.

9. Perusal of record further reveals that after dismissal of application under Order XII Rule 6 CPC, third application under Order VI Rule 17 CPC filed on behalf of plaintiff but same was dismissed as withdrawn on 18.12.2024 and thereafter, present application under Order VI Rule 17 CPC filed.

10. By way of present application, plaintiff is seeking amendment for identification of suit property, amendment of two paras and prayer clause as follows :-

| Prior Amendment                                                                                                                                                                                                                                                                                                                      | After Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <b>Para No. 1:</b> That the plaintiff and the defendants are legal heirs/owners of the property measuring 160 Sq. Yards situated Near Shiv Mandir, Saini Mohalla in Extended Laldora Abadi of Village-Shahbad Mohammadpur, New Delhi hereinafter called as suit property specifically shown as red colour in the attached site plan. | <b>Para No. 1:</b> that the plaintiff and the defendants are legal heirs/owners of the property measuring 160 sqr. Yds. approximately, Saini Mohalla, Near Shiv Mandir Khasra No. 278 situated in extended lal dora abadi of village Shahbad Mohammadpur, New Delhi and the boundaries of the said suit property are as under:-<br>East - Road<br>West-Other properties<br>North-House of Sumitra Devi<br>South-House of Sullad Saini<br>and hereinafter the said suit |

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|                                                                                                                                                                                           | <p>property has been specifically shown as red in the site plan attached herewith the plaint. It is important to mention here that the defendant no. 1 with a view to misguide the Hon'ble Court as well as to the plaintiff has taken electricity or water connection in the name of his son Anurag Lamba mentioning his address as House No. 830, First Floor, Saini Mohalla, Mohammadpur, Delhi 110061 in the suit property and House No. 262, Ground Floor, Saini Mohalla, Mohammadpur Shahbad, of the suit property in the Electricity Bill of BSES Rajdhani Power Limited and in the receipt and applications furnished before the concerned government authorities. The defendant No. 1 has enemy terms with the plaintiff therefore the correct measurement of the said suit property cannot be taken out even if the plaintiff dared to take the correct measurement of the suit property it will turned in more criminal offences, only the Hon'ble court has right to take the correct measurement of the suit property by appointing a commissioner to take measurement of the suit property.</p> |
| <p><b>Para No. 25-</b> That the value of the suit for the purpose of pecuniary jurisdiction is fixed at Rs.48 Lakhs and for the purpose of court fees on the 1/32th share of the suit</p> | <p><b>Para No. 25-</b> That the value of the suit for the purpose of pecuniary jurisdiction is fixed at Rs. 48,00,000/- and for the purpose of court fee on 1/26 share of the suit property of the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| property of the plaintiff for the purpose of partition of the suit property is valued at Rs.2 Lakhs of the share of the plaintiff in the suit property and for the purpose of relief of permanent injunction is valued at Rs.130/- and the requisite court fees as per the share of the plaintiff is being affixed herein.                                                                                                                                                                                                                                                                                                                                                                                                               | plaintiff for the purpose of partition of the suit property is valued at Rs. 2,00,000/- for the share of the plaintiff in the said suit property and for the purpose of relief of permanent injunction is valued @ R. 130/- and the requisite court fee as per share of the plaintiff is being affixed herein.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Para (a) of prayer clause-</b> a) A decree for specific possession by way of partition of the suit property may kindly be passed, in favour of the plaintiff and against the defendants thereby demarcating the share of the plaintiff to the extent of his 1/32 share in the total suit property i.e. Near Shiv Mandir, Saini Mohalla, in Extended Laldora Abadi of Village-Shahbad Mohammadpur, New Delhi as shown in red colour in the site plan attached herewith keeping in view the value of the suit property to the extent that the plaintiff gets the property of equal value and directing the defendants to handover such specific portion of the suit property of his share to the plaintiff, in the interest of justice. | <b>Para (a) of prayer clause-</b> A decree for specific portion by way of partition of specific portion by way of partition of the suit property, in favour of the plaintiff and against the defendant thereby demarketing the share of the plaintiff to the extent of his 1/26 share in the total suit property i.e. measuring 160 sqr. Yds. approximately, Saini Mohalla, Near Shiv Mandir Khasra No. 278 situated in extended lal dora abadi of village Shahbad Mohammadpur, New Delhi as shown in red colour in the attached site plan attached herewith keeping in view the value of the suit property to the extent that the plaintiff gets the property of equal value and directing the defendants to handover such specific portion of the suit property of his share to the plaintiff, in the interest of justice. |

11. It is well settled law that, where the amendment is sought before commencement of trial, the court is required to be liberal in its approach as the opposite party would have a chance

to meet the case set up in amendment but, it shall not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment.

12. Hon'ble Supreme Court of India in ***Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr<sup>1</sup>*** after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:

*' 70. Our final conclusions may be summed up thus:*

- (i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negated.*
- (ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.*
- (iii) The prayer for amendment is to be allowed*
  - (i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and*
  - (ii) to avoid multiplicity of proceedings, provided (a) the amendment does not result in injustice to the other side, (b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and (c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).*
- (iv) A prayer for amendment is generally required to be allowed unless*
  - (i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim*

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<sup>1</sup> MANU/SC/1093/2022

*would be time barred becomes a relevant factor for consideration,*

- (ii) the amendment changes the nature of the suit,*
- (iii) the prayer for amendment is malafide, or*
- (iv) by the amendment, the other side loses a valid defence.*
- (v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.*
- (vi) Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.*
- (vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.*
- (viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.*
- (ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.*
- (x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*
- (xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to*

be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897)

**(emphasis is mine)**

13. Careful consideration of the amendment sought by the plaintiff reveals that, the same duly satisfied the test laid down by Hon'ble Supreme Court of India in *LIC (Supra)*. By way of present amendment, plaintiff is seeking amendment in prayer clause as well as pleading. Thus, considering the facts and circumstances of the present case and submissions made by the parties application under Order VI Rule 17 CPC stands allowed subject to cost of Rs.5000/- to be paid to the defendants. Amended plaint is taken on record.

14. Application stands disposed off.

15. List this matter for arguments on pending application and further proceedings on **19.03.2026**.

(SHILPI M JAIN)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 22.12.2025 (sk)