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CS DJ ADJ 15976/16

RAVINDER PRAKASH JAIN ORS. Vs. NIMI TALWAR ORS.

**05.11.2024**

Present: Sh. Sanjeev Sahay, Ld. Counsel for Plaintiff through VC.  
Sh. Sudhanshu Tomar, Ld. Counsel for Defendant no. 4.

One of the regular stenographers is on leave today.  
Arguments heard on the application under Order VI R 17  
of CPC.

List for orders at 01:00 PM.

**(DIVYANG THAKUR)**  
**DJ-03/SOUTH-WEST**  
**DWARKA/NEW DELHI**  
**05.11.2024 (A)**

**At 01:00 PM**

Present: None.

*Vide* the present order, I would decide the application under Order VI R 17 of CPC moved on behalf of the Plaintiff.

I have heard the parties and perused the record.

*Vide* the present application, the Plaintiff seeks to amend the plaint by praying for a declaration that the sale deed executed by Defendant no. 1 in favour of Defendant no. 2 is null and void.

Ld. Counsel for Defendant no. 4 has submitted that the application may not be allowed as the relief may be time barred due to the law of limitation.

Ld. Counsel for Plaintiff has submitted that the foundational facts qua the sale deed executed by Defendant no. 1 have

already been pleaded in the plaint. He submitted that the main issues have not been framed as of now.

The question of limitation can be raised by the Defendants while filing their amended WS and no prejudice would be caused to them on this ground. It will have to be determined from a meaningful reading of the plaint. Whether the relief sought is time barred or whether evidence has to be led to determine the said issue. Therefore, to say at this stage that the amendment should be refused due to the said relief being time barred, would be erroneous. As the matter is at the initial stage and as the foundational facts have already been pleaded in the plaint qua the sale deed executed by Defendant no. 1, the application should be allowed subject to payment of cost of Rs. 3,000/- to be paid to DSLSA against due receipt.

Plaintiff is directed to file the amended plaint within 15 days along with advance copy to the opposite party.

Defendants are directed to file their amended WS in reply to the amended plaint within a further period of six weeks along with advance copy to the opposite party.

Application is disposed off accordingly.

List for completion of pleadings and further proceedings on **18.01.2025**.

**(DIVYANG THAKUR)**  
**DJ-03/SOUTH-WEST**  
**DWARKA/NEW DELHI**  
**05.11.2024 (A)**