

CS no.286/2017

Davinder Kaur anand vs. jai Parkash Nagar & Ors.

06.02.2018

Present: Sh. Jatinder Marwah, counsel for the plaintiff.

Proxy counsel for counsel for the defendant nos. 1 & 2.

Defendant nos.3 & 4 already proceeded ex parte vide order dated 01.07.2017.

Today, the matter is fixed for cross examination of PW-1 however, counsel appearing for the defendant nos.1 & 2 seeks adjournment on the ground that main counsel is in personal difficulty today. At his request, put up for cross examination of PW-1 and RPE on 23.02.2018. Date has been given as per convenience of counsel for defendant nos. 1 & 2.

(MOHD. FARRUKH)

ADJ (SW)/PILOT COURT/ DWARKA COURTS(an)

Damodar Prashad Sharma vs. Raj Kumar Sharma & Ors.

06.02.2018

Present: Sh. Rajesh Rai, counsel for the plaintiff with plaintiff.

Defendant no.1 in person.

None for defendant no.2.

Defendant no.3 already proceeded ex parte vide order dated 26.10.2017.

Counsel for defendant nos.4 & 5.

Summons report qua defendant no.2 received. Report states that defendant no.2 is not residing at the address given for the last few years. Although the process server has affixed the summons after paying three mandatory visits, yet I do not deem it a fit service upon defendant no.2. Counsel for the plaintiff seeks time to take appropriate steps to serve defendant no.2.

At this stage, counsel for the plaintiff moved an application under Order 6 Rule 17 CPC seeking amendment in para no.13 & 15 of the plaint. Copy given. It has been averred *inter alia* that it came to the knowledge of the plaintiff after obtaining the copy of Will purportedly executed by father of the plaintiff from the registrar office that the portion in possession of defendant no.1 is 40 sq.yds. instead of 55 sq.yds as mentioned in the plaint.

Counsel for defendant nos.4 &5 has no objection, if the said

application seeking amendment is allowed.

Heard. Record perused.

Trial has not yet commenced and the matter is still at the initial stage. Moreover, the proposed amendment is only pertaining to the area of some portion of the suit property and no prejudice would be caused to the defendants, if the application is allowed.

In view of the above, the application under Order 6 Rule 17 CPC is allowed. Amended plaint is taken on record.

Counsel for the plaintiff submits that the copy of the Will obtained from the office of Registrar received by him recently which be taken on record.

This court by invoking power under Order 7 Rule 14 CPC coupled with the fact that the amended plaint has been taken on record today itself, is inclined to allow the oral request of plaintiff. Hence the copy of the Will is taken on record. Needless to observe that plaintiff shall prove the said Will, as per law.

Put up for service report qua defendant no.2, written statement to the amended plaint by defendant nos. 1, 2, 4 & 5, replication thereto, if any, admission/denial of documents, framing of issues and for exploring the possibility of settlement, if any on 26.02.2018. All the parties are directed to appear in person for admission/denial and for exploring the possibility of settlement if any.

(MOHD. FARRUKH)  
ADJ (SW)/PILOT COURT/ DWARKA COUR