

CSno.451/17

Harbhajan Kaur vs. Amardeep Kaur & Anr.

16.11.2017

Present: Sh. Sanjeev Bhatia, counsel for the plaintiff
with plaintiff.

Ms. Vandana S. Bhandari, counsel for the
defendants with defendant no.1.

Matter is coming up for filing of written statement to the
amended plaint.

At this stage, counsel for the defendants has drawn my
attention to review petition under Section 114 Order 27
rule 1 read with Section 151 CPC filed by defendants.

The said review petition has been received by
assignment. Let the review petition is checked and
registered (M no.432/2017) and be attached with the
main suit file No.451/17. The review petition is for

seeking review of the order dated 26.10.2017 passed in main suit file no.451/17 vide which the application of the plaintiff seeking amendment under Order 6 rule 17 CPC was allowed. The application has been filed on the ground that defendants has not been given an opportunity to file reply to application under Order 6 Rule 17 CPC seeking amendment filed by the plaintiff. The other ground taken in the application is that the trial in the matter has commenced and plaintiff has not given any ground as to why these pleas were not taken earlier. The other ground is that the plaintiff is withdrawing the admission made in para no.6 of the original plaint.

Heard. Record perused.

The scope of seeking review as a per Section 47 Order 27 Rule 1 read with Section 151 CPC is very limited. While allowing the application seeking amendment, it has been specifically observed that trial has not yet commenced.

The judgments relied upon by counsel the review petitioners/defendants titled as **J. K. Kashyap vs. Rajiv Gupta** 196 (2013) DLT 263, **Just Lifestyle Ltd. vs. Advance Magazine Publishers Inc. & anr.** 198 (2013) DLT 306 (DB) passed by the Hon'ble Delhi High Court

and *Vidyabal vs. Padmalatha* AIR 2009 SCC 1433 passed by the Hon'ble Supreme Court are not applicable to the facts and circumstances of the present case as in the instant case, issues were framed and thereafter neither any affidavit has been filed nor any evidence has been adduced by the plaintiff. While in the facts of the judgments relied upon by the review petitioners/defendants, after framing of the issues, the affidavit in evidence was filed on record and the matter was put up for cross examination of the witness.

As far as the contention of the defendants pertaining to the withdrawal of the admission in the earlier plaint is concerned, the plaintiff has stated that the suit property was sold by the plaintiff to the husband of defendant no.1, however, in reply to that contention defendants have neither admitted nor denied the said averment of the plaintiff. Furthermore, their case is that the suit property i.e. plot no.29 was gifted and the issues in this regard has been framed and the onus of which has been placed on the defendants.

In view of the above discussions, **I do not find any merit in the review petition, therefore the same is dismissed. Review petition file (M no.432/2017) be consigned to record room.**

Previous cost of Rs.5000/- paid by plaintiff to counsel for defendants today.

Last and final opportunity is granted to file written statement to the amended plaint within ten days from today under advance copy to opposite party who shall file replication thereto if any on the next date.

Put up for filing of written statement to the amended plaint, replication thereto, if any, admission/denial of documents, framing of issues and for exploring the possibility of settlement if any on 30.11.2017.

Both the parties are directed to file admission/denial of documents and for exploring the possibility of settlement if any.

(MOHD. FARRUKH)
ADJ (SW)/PILOT COURT/ DWARKA COURTS(an)
16.11.2017