

**IN THE COURT OF SH. SANJAY KUMAR, LD. ADDL. DISTRICT  
JUDGE; WEST (DELHI )**

**PC No. 27/16**

**Manju Vats  
vs.  
Meena Pandey**

**ORDER  
16.09.2016**

1 An application under Order VI rule 17 read with Section 151 read with Section 263 and 264 of Indian Succession Act filed by applicant/petitioner Manju Vats.

2 In brief facts are that the petition under Section 263 of Indian Succession Act filed by Manju Vats for revocation of letter of administration granted to Ms. Meena Pandey with annexed Will dated 08.04.1988 of deceased Smt. Sita Devi. Notice of revocation petition issued to Meena Pandey, non-applicant/respondent.

3 It is stated that in between the time of date of hearing, applicant changed her counsel for the present revocation petition and also to lookafter and pursue the civil suit pending before the Hon'ble High Court. During the discussions with the new counsel, applicant came to know certain essential grounds which were missed out at the time of filing of revocation petition. Now, with a view to explain the facts in better manner and put forward grounds of revocation, applicant seeks amendments.

4 It is stated that applicant wish to incorporate para 23A in between para No. 23 and 24 of the revocation petition. The applicant incorporated para 23A to K and the verification.

5           It is stated that proposed amendment in noway changes the nature of proceedings and relief and necessary to decide the real controversies between the parties. No prejudice shall be caused to the parties as proceedings are at very initial stages. The non-applicant/respondent Meena Pandey has not even filed reply to the revocation petition. However, if proposed amendments are not allowed then it will cause serious prejudice to the applicant as proposed amendments are just necessary and proper. The applicant seeks amendment application may be allowed and amended revocation petition may be taken on record.

6           Non-applicant/respondent Meena Pandey file reply to the application and taken preliminary objection that present application is not maintainable and liable to be dismissed because applicant in the garb of present application wants to fill up the lacuna which are left at the time of filing of revocation petition. The applicant cannot take undue advantage of alleged incompetency of her previous counsel who failed to include all the proposed facts which were known to the petitioner at the time of filing of revocation petition. The application proposes absolutely new facts which change the nature of the case and stand of applicant.

7           It is stated that application is liable to be dismissed as similar application in CS(OS) No. 1281/2015 also filed before the Hon'ble High Court on the pretext that applicant came to know about the factum of grant of letter of administration to non-applicant Meena Pandey. The ground is the same that

earlier counsel did not stated the facts in proper manner which were already in the knowledge of the applicant. On merit, all the averments were denied. The proposed paras 23A to K also denied. It is stated that now absolutely new grounds have been taken which changes the entire nature of the present case. The proposed amendments would cause great prejudice to non-applicant/Meena Pandey. It is stated that application under Order VI rule 17 CPC may be dismissed.

8 I have heard Id. Counsel for applicant Sh. Naresh Gupta and Ms. Dimple Dhamija, counsel for non-applicant/respondent. I have gone through the record and also perused the judgments relied by counsel for applicant.

9 The judgments are **Jai Jai Ram Manohar Lal vs. National Building Material Supply, Gurgaon, 1970 1 SCR; Ganesh Trading Company vs. Mauji Ram, AIR 1978 SC 484; Baldev Singh & Ors. vs. Manohar Singh & Anr. (2006) 6 SCC 498; and Ramesh Kumar Aggarwal vs. Raj Mala Exports Private Limited (2002) 5 SCC 337.**

10 I have considered respective submissions of both the counsels and gone through above referred judgments by the counsel for the applicant.

11 Ld. Counsel for the applicant referred to the case of **Ramesh Kumar Aggarwal (Supra)** wherein he emphasized on para 20 with regard to important factors laid down and highlighted by the Hon'ble Apex Court in para 20 thereof. Para

20 is reproduced as under :-

*“63. On critically analysing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment:*

*(1) whether the amendment sought is imperative for proper and effective adjudication of the case;*

*(2) whether the application for amendment is bona fide or malafide;*

*(3) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;*

*(4) refusing amendment would in fact lead to injustice or lead to multiple litigation;*

*(5) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and*

*(6) as a general rule, the Court should decline amendments of a fresh suit on the amended claims would be barred by limitation on the date of application.”*

12 Now applying the factors in the present case, it is emphasized that the applicant at the time of filing of the original application for revocation she had apprised his previous counsel Sh. Rajesh Bhatia in respect of all the circumstances, facts and grounds. In para 3 admitted that she has changed the counsel and now Sh. Naresh Gupta would represent her before this Court as well as before Hon'ble High Court. During discussion with the new counsel, some essential grounds have missed out which are to be forwarded in the shape of proposed amendments in para 23A to K.

13 I have gone through 11 proposed paras in the application. First four paras pertain to one LR Arun Vats, who is not one of the applicant and never raised any objections and this fact has already been highlighted in the original application. Further the paras 23E to H are totally new paras having legal element and set up totally a new petition. The non-applicant Meena Pandey counsel has taken the specific grounds that proposed amendments would set up a new case and would cause prejudice because the application for amendment filed after going through the reply of the non-applicant to the main original application for revocation and would cause great prejudice. I agree with the submissions of Id. Counsel for non-applicant after going through all the grounds. The proposed amendments are primarily based upon the fact that a new counsel has been engaged. The proposed amendments are not purely elaborating and explaining the earlier case but set up a new case especially when new legal pleas have been incorporated in the proposed amendment. The proposed amendment definitely cause prejudice to the non-applicant and also fundamentally change the real controversy between the parties.

14 On the basis of above observation and discussion and keeping the facts and circumstances of the case, the application under Order VI rule 17 CPC filed by the applicant is dismissed.

**Announced in open court  
On 16<sup>th</sup> Sept. 2016**

**(SANJAY KUMAR)  
ADJ-02-West/ Delhi**





