

CIV DJ 13036/2016
Munish Verma Vs.
Rekha Sharma & Anr.

08.05.2024

Present: Plaintiff with Ld. Counsel Sh. Vijay Babbar.
 Sh. Gaurav Malhotra, Ld. Counsel for D-1.
 None for D-2.

An application u/o XIV Rule 5 r/w Sec. 151 CPC, filed on behalf of plaintiff after LDOH, is received. Same is taken on record. Copy of the same is already stated to have been supplied to opposite side.

By way of present application, additional issue is sought to be framed with regard to amendments carried out in plaint vide order dated 24.05.2022.

Mainly it is stated that the afore-mentioned amendment was carried out as on account of some typographical error, in place of 'specific performanc', relief of 'mandatory injunction' was mentioned, that consequently an additional issue is required to be framed in the matter and that the defendant shall not suffer any prejudice by that.

The afore-mentioned plea has been opposed by Ld. Counsel for D-1 mainly on the ground that the application has been filed at a belated stage.

It is observed that vide order dated 24.05.2022 amendment was allowed to be carried out in the plaint to mention relief of specific performance, hence, this Court is of considered view that it is necessary to frame addtional issue for properly determining the matter in controversy between the parties.

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Hence, the present application is being allowed subject to cost of Rs.1,000/-, to be paid by the plaintiff to the D-1. The additional issue is being framed as under and the earlier framed issues are also re-produced to bring clarity:-

- i) Whether the plaintiff is entitled for the decree of mandatory injunction, as prayed for? OPP.*
- ia) Whether the plaintiff is entitled for the decree of specific performance, as prayed for? OPP.*
- (ii) Whether the plaintiff is entitled for the decree of permanent injunction, as prayed for? OPP.*
- (iii) Whether the plaintiff is entitled for mense profit, if so, at what rate, at what amount and for which period? OPP.*
- (iv) Whether the plaintiff is entitled for the decree of Rs. 7 lacs, as prayed for? OPP.*
- (v) Relief.*

There is no requirement for the parties to lead further/ additional evidence in respect of the additional issue framed today as earlier the relief of specific performance has been covered under the relief of mandatory injunction in respect of which evidence has already been led.

At request, put up for final arguments on
31.07.2024.

(GOPAL SINGH CHAUHAN)
DJ-03, WEST/DELHI
08.05.2024