

05.08.2026.

ORDER

Present: None.

1. The present order shall decide an application preferred by the plaintiff under Order VI Rule 17 r/w Section 151 of the C.P.C, 1908, seeking amendment of the plaint by incorporating the relief of declaration to the effect that the plaintiff (since deceased, through his LR's) be declared the owner of the suit property. The proposed amended plaint has been filed along with the application.

I. Brief background

2. The present suit has remained pending for more than three decades and has witnessed a long procedural journey. Originally instituted before the Hon'ble High Court of Delhi in its original civil jurisdiction as **Suit No. 1332/1991**, the matter thereafter came to be transferred to the District Courts upon change in the pecuniary jurisdiction and was subsequently assigned to different courts of competent jurisdiction from time to time pursuant to administrative orders.

During the pendency of the proceedings, issues were framed by the Ld. Trial Court on **02.04.2009**, including Issue No. 1 relating to the ownership of the suit property. Thereafter, both sides led their respective evidence. The plaintiff examined four witnesses, whereas Defendant No. 2/DDA examined one witness in support of its defence.

By judgment dated **11.01.2019**, however, the Ld. Trial Court struck off Issue Nos. 1 and 4, treated Issue Nos. 2 and 3 as infructuous and substantially decided the controversy while adjudicating the proceedings under Order XXXIX Rule 2A CPC.

The said judgment was challenged before the Ld. First Appellate Court. By judgment dated **24.12.2020**, the Ld. First Appellate Court set aside the judgment of the Trial Court and remanded the matter, holding, inter alia, that the questions relating to

ownership and settled possession required adjudication after appreciation of the evidence led by the parties.

Both parties thereafter approached the Hon'ble High Court of Delhi by way of **RSA No. 42/2021 (Satya Narain v. Chairman, DDA)** and **RSA No. 67/2021 (Chairman, DDA v. Satya Narain)**. By a common judgment dated **09.01.2026**, the Hon'ble High Court dismissed both Regular Second Appeals and affirmed the order of remand. While doing so, the Hon'ble High Court observed that the material issues had not been adjudicated on merits by the Ld. Trial Court and consequently upheld the direction requiring adjudication of the issues after appreciation of the evidence. The Hon'ble High Court further granted liberty to the parties to adduce such further evidence as may be permissible in accordance with law and clarified that it had expressed no opinion on the merits of the dispute.

The present application has thereafter been preferred.

II. Submissions on behalf of the plaintiff

3. Ld. counsel for the plaintiff submits that the proposed amendment merely seeks incorporation of an additional relief of declaration and does not introduce any new factual foundation. It is contended that from the inception of the suit the plaintiff has consistently asserted ownership over the suit property on the basis of the registered sale deed, the consequential revenue entries and continuous possession. According to the plaintiff, the proposed amendment only seeks to align the relief clause with the foundational pleadings already forming part of the plaint.

It is further submitted that both the First Appellate Court, by judgment dated **24.12.2020**, and the Hon'ble High Court, by judgment dated **09.01.2026**, have recognised that the controversy relating to title requires adjudication upon appreciation of evidence. Reliance is also placed upon the observations of the Hon'ble High Court while considering the applicability of the principles enunciated in *Anathula Sudhakar*, to contend that the proposed amendment is necessary for complete and effective

adjudication of the real controversy. It is further argued that no prejudice would be caused to the defendants as the matter already stands remanded and liberty to adduce further evidence has expressly been granted.

III. Objections of Defendant No. 2

The application is premarily opposed by Defendant/DDA on following counts:-

Firstly, it is argued that the proposed relief of declaration is hopelessly barred by limitation, the original cause of action having arisen decades earlier, and therefore a time-barred relief cannot be permitted to be introduced by way of amendment.

Secondly, it is submitted that incorporation of the relief of declaration fundamentally alters the nature and character of the suit, which was originally instituted as a suit for injunction, and seeks to transform the proceedings into a title suit after conclusion of the trial.

Thirdly, reliance is placed upon the proviso to Order VI Rule 17 CPC to contend that the plaintiff has failed to demonstrate due diligence or furnish any satisfactory explanation as to why such relief was not claimed despite all material facts having been within the plaintiff's knowledge since the institution of the suit.

The remaining objections raised by Defendant No. 2 relate to the rival claims of title, acquisition, possession, identity of the suit property and other questions touching the merits of the controversy, which shall be noticed, to the extent necessary, while considering the present application.

IV. Questions for determination

In view of the rival submissions, the following questions arise for consideration:

1. Whether the proposed amendment satisfies the requirements of Order VI Rule 17 CPC and its proviso?
2. Whether the proposed amendment merely elaborates the existing controversy or fundamentally changes the nature and character of the suit?

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3. Whether the objection of limitation constitutes a bar to the exercise of discretion under Order VI Rule 17 in the facts of the present case?
4. Whether, in the peculiar factual and procedural background of the present case, the amendment is necessary for determining the real questions in controversy between the parties?

V. Statutory Scheme and Governing Principles

The jurisdiction of the Civil Court to permit amendment of pleadings is traceable to **Order VI Rule 17 of the Code of Civil Procedure, 1908**, which reads as under:

"The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

A plain reading of the Rule demonstrates that while the substantive part confers a wide discretionary jurisdiction upon the Court to permit amendment of pleadings at any stage of the proceedings, such discretion is circumscribed, after commencement of trial, by the proviso requiring the Court to satisfy itself that despite exercise of due diligence, the party could not have raised the matter earlier.

The object underlying Order VI Rule 17 is neither to punish a litigant for an error in drafting nor to permit an unrestricted alteration of pleadings at any stage. The underlying legislative intent is to enable the Court to effectively adjudicate the real controversy between the parties while simultaneously ensuring that belated amendments do not unfairly prejudice the opposite side or defeat accrued legal rights.

The contours of this jurisdiction now stand authoritatively settled by a catena of decisions of the Hon'ble Supreme Court.

- In **Revajeetu Builders & Developers v. Narayanaswamy & Sons**, (2009) 10 SCC 84, the Hon'ble Supreme Court held that while considering an application for amendment, the Court is required to examine, inter alia, whether the amendment is imperative for effective adjudication of the real controversy; whether it is bona fide; whether it fundamentally changes the nature and character of the proceedings; whether refusal would result in multiplicity of litigation; and whether the opposite party can be adequately compensated by costs.
- Subsequently, in **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd.**, (2022) 6 SCC 593, after surveying the earlier precedents governing amendment of pleadings, the Hon'ble Supreme Court reiterated that procedural law is intended to advance the cause of justice and that amendments necessary for determining the real controversy between the parties ordinarily deserve to be permitted, provided they do not result in injustice or irreparable prejudice to the opposite party.
- In that case, the respondents (original plaintiffs) had instituted Suit No. 894 of 1986 before the High Court of Judicature at Bombay (Original Side) seeking specific performance of an agreement dated 08.06.1979, and in the alternative, damages. During the pendency of the suit, the plaintiffs moved Chamber Summons No. 854 of 2017 seeking enhancement of the quantum of damages originally claimed, on the basis that the loss suffered under the same transaction had been more accurately assessed at a higher figure. The Id. Single Judge allowed the chamber summons by order dated 11.09.2018, while keeping the question of limitation open and granting liberty to the defendant to file an additional written statement. The defendant's challenge thereto was rejected in appeal by order dated 13.12.2018.
- Upholding the permissibility of the amendment, the Hon'ble Supreme Court emphasised that the determinative test is not merely the stage at which the

amendment is sought, but whether it introduces a **new and inconsistent cause of action** or whether it remains anchored in the **same foundational facts and transaction already pleaded**. The Court found that the amendment in question did not seek to alter the basic factual substratum of the suit or substitute a different cause of action; rather, it merely sought enhancement of the relief of damages flowing from the very same agreement and breach already pleaded. Since the factual foundation remained unchanged, the amendment was held to be necessary for a complete and effective adjudication of the real controversy between the parties.

- The Court further clarified that an amendment which merely expands, refines, or enhances the relief based on the same set of facts stands on a fundamentally different footing from an amendment which displaces the original case or introduces an entirely new factual foundation. It was therefore held that even a belated amendment cannot be rejected solely on the ground of delay if it does not change the nature of the dispute or prejudice the opposite party in a manner incapable of being compensated. The governing consideration remains whether the amendment is essential for adjudicating the real controversy arising from the same transaction, and whether any resulting prejudice can be neutralised by appropriate terms, including costs.
- The Hon'ble Supreme Court in **Sampath Kumar v. Ayyakannu**, (2002) 7 SCC 559, while dealing with an amendment seeking incorporation of a relief of declaration in a suit initially framed differently, held that where the foundational facts already exist on record and the amendment is necessary to enable complete adjudication of the dispute, the Court may permit such amendment, subject to appropriate safeguards, leaving open such legal objections as are otherwise available to the opposite party.

- Likewise, in **Pankaja v. Yellappa**, (2004) 6 SCC 415, it was held that the mere existence of an arguable plea of limitation does not, by itself, compel rejection of an amendment. Where the question of limitation itself requires examination of facts or involves mixed questions of law and fact, the Court may permit the amendment, leaving such issue to be adjudicated at the appropriate stage.

The principles emerging from the aforesaid authorities may broadly be summarised thus:

- (i) the dominant consideration is whether the amendment is necessary for determining the real controversy between the parties;
- (ii) an amendment introducing an altogether new and inconsistent case stands on a different footing from one merely seeking an additional or consequential relief founded upon the same factual basis;
- (iii) after commencement of trial, the Court must carefully examine the requirement of due diligence under the proviso to Order VI Rule 17 CPC;
- (iv) while exercising its discretion, the Court must balance the prejudice likely to be caused to the opposite party against the possibility of multiplicity of proceedings if the amendment is refused;
- (v) an objection regarding limitation, where arguable or requiring adjudication on facts, does not invariably constitute an absolute bar to permitting an amendment; and
- (vi) every application for amendment must ultimately be decided in the peculiar facts and procedural background of the individual case.

VI. Analysis

- (i) The principal objections of Defendant No. 2 are:- Firstly, it is contended that the present application is barred by the proviso to Order VI Rule 17 CPC, and that the plaintiff has failed to establish due diligence for not seeking the relief of declaration earlier. Secondly, it is urged that the proposed relief is ex facie barred by limitation. Thirdly, it is argued that incorporation of the relief of declaration fundamentally alters

the nature and character of the suit by converting a suit for injunction into a suit based on declaration of title. Lastly, it is submitted that permitting such amendment after the parties have already undergone a full-fledged trial would seriously prejudice the rights accrued in favour of Defendant No. 2. Since all the objections stem from the same factual matrix, they are being considered together.

(ii) At the outset, this Court is in agreement with the legal propositions canvassed on behalf of Defendant No. 2 that the proviso to Order VI Rule 17 CPC is mandatory in nature and cannot be diluted merely because an amendment is otherwise desirable. Equally, while considering a belated amendment, the Court is required to remain conscious of the questions of limitation, change in the nature of the proceedings and the prejudice likely to be caused to the opposite party. However, these principles cannot be applied in isolation divorced from the peculiar facts and procedural history of the litigation.

(iii) The distinguishing feature of the present case is that the controversy regarding title has not emerged for the first time by way of the present application. Rather, it has remained the foundation of the lis since its inception. The plaintiff instituted the present suit asserting ownership over the suit property on the strength of the registered sale deed dated 27/28.08.1958, mutation and revenue entries, whereas Defendant No. 2, from the very beginning, categorically disputed such title and asserted that the land stood acquired, vested in the Government and thereafter transferred to DDA. Thus, both parties consciously joined issue on the question of title from the inception of the proceedings. The present application, therefore, does not seek to introduce a controversy which Defendant No. 2 was never called upon to meet.

(iv) This position also stands reinforced by the manner in which the litigation itself has progressed over the years. Even while the matter was pending before the Hon'ble High Court on its Original Side, the order dated 30.04.1991 recorded that the question of title would require adjudication on the basis of evidence to be led by the parties. Consistent

therewith, the Trial Court framed a specific issue on 02.04.2009 as to whether the plaintiff was the owner of the suit property. The parties thereafter proceeded with the trial with full knowledge that ownership constituted one of the principal controversies requiring adjudication. Subsequently, the First Appellate Court, by judgment dated 24.12.2020, found that the Trial Court had committed an error in striking off the issue relating to ownership and in not appreciating the evidence led by both parties on that aspect. The Hon'ble High Court, while affirming the remand by judgment dated 09.01.2026, reiterated that the issues relating to title and settled possession required adjudication on the basis of evidence and accordingly upheld the order directing a fresh consideration. These judicial pronouncements are not noticed to suggest that they mandate the present amendment; they are referred to only to demonstrate that throughout the course of the litigation, the question of title has consistently remained recognised as the central dispute between the parties.

(v) Viewed in the aforesaid backdrop, the objection that the proposed amendment changes the nature of the suit does not merit acceptance in the manner urged by Defendant No. 2. It is true that the plaintiff now seeks incorporation of an additional substantive relief of declaration. However, the amendment neither introduces a new source of title nor substitutes the original factual foundation of the suit. The claim of ownership, the documents relied upon and the rival stand of Defendant No. 2 have remained unchanged since the institution of the suit. What is sought is only an enlargement of the relief clause founded upon the very pleadings which have always formed part of the record. Whether such relief is ultimately liable to be granted is a matter to be determined only after trial and this Court expresses no opinion thereon.

vi) The objection founded upon the proviso to Order VI Rule 17 CPC also deserves consideration. The plaintiff has explained that although ownership was specifically pleaded throughout the plaint, the corresponding relief of declaration was omitted owing to the manner in which the plaint came to be drafted, due to inadvertence of counsel of

plaintiff. Standing alone, such explanation may not ordinarily constitute a complete answer to the requirement of due diligence. Nevertheless, the present application cannot be examined as though the parties had litigated the matter on the assumption that title was irrelevant. On the contrary, the pleadings, the issues framed by the Court, the course of the trial, as well as the findings returned by the Id. First Appellate Court and affirmed by the Hon'ble High Court unmistakably show that the dispute regarding title has always remained alive. In these exceptional circumstances, refusal of the amendment solely on account of the omission in the prayer clause would result in the real controversy remaining inadequately addressed despite the matter having been remanded precisely for adjudication of those issues.

vii) The plea of limitation does not warrant a final determination while deciding the present interlocutory application. Whether the proposed declaratory relief is barred by limitation, and the legal consequences flowing therefrom, are matters which Defendant No. 2 shall be entitled to urge in the amended written statement and which shall be decided at the appropriate stage in accordance with law. Any conclusive observation thereon at this stage would unnecessarily trench upon issues which properly fall for adjudication during the trial.

viii) This Court also finds no irreparable prejudice likely to be caused to Defendant No. 2 if the amendment is permitted. Defendant No. 2 shall have full opportunity to file an amended written statement, raise every legal and factual defence available to it, if required, and lead such further evidence as may be permissible in terms of the remand order. Thus, none of its substantive defences stand foreclosed merely because the amendment is permitted. At the same time, the Court cannot ignore that the present application has become necessary after the litigation has traversed several stages over more than three decades. The inconvenience caused to Defendant No. 2 on account of such belated amendment deserves to be adequately compensated by costs.

ix) Having regard to the totality of the circumstances, namely, the nature of the original pleadings, the consistent stand of the parties on the question of title, the issues framed by the Trial Court, the findings recorded by the Ld. First Appellate Court and affirmed by the Hon'ble High Court regarding the necessity of adjudicating title on merits, the absence of any new factual foundation sought to be introduced, and the need to secure a complete and effective adjudication of the real controversy, this Court is satisfied that the present case constitutes an exceptional instance where the discretion under Order VI Rule 17 CPC deserves to be exercised. At the same time, the plaintiff cannot be absolved of the consequences of the omission in the original plaint and the equities between the parties would be appropriately balanced by awarding costs while preserving all legal and factual objections of Defendant No. 2 for adjudication during the course of the trial.

VII. Directions

- 1. In view of the foregoing discussion and for the reasons recorded hereinabove, the application under Order VI Rule 17 r/w Section 151 CPC preferred on behalf of the plaintiff is allowed, subject to payment of costs of ₹10,000/- to Defendant No. 2/DDA on or before NDOH.**
- 2. The amended plaint already filed along with the application is taken on record, subject to payment of the aforesaid costs.**
- 3. Defendant No. 2 shall file its amended written statement, if so advised, within 7 days from today, with an advance copy to the opposite side.**
- 4. The parties shall also place on record their respective site plans and any other documents, if any, relevant to the identification of the suit property, on or before NDOH.**

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Needless to observe, nothing contained in this order shall be construed as an expression of opinion on the merits of the rival claims of the parties, all of which are left open for adjudication/consideration.

Put up for completion of pleadings/framing of additional issues, if any on
14.08.2026.

(Himanshu Sehloth)
Civil Judge-02 (Central), Delhi
05.08.2026