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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 26th NOVEMBER, 2025

IN THE MATTER OF:

+ **CS(OS) 84/2019 & I.A. 16481/2023, I.A. 7885/2025**

SMT. BINDU SHARMA

.....Plaintiff

Through: Mr Akhil Sachar, Ms Sunanda
Tulsyani, Ms Kashish Maheshwari &
Ms Babita Rawat, Advs

versus

KAPIL SUD & ANR.

.....Defendants

Through: Ms. Tamali Wad, Sr. Adv along with
Mr. Mohit K Mudgal, Ms. Palak
Garg, Ms. Harshita Verma, Advs for
D-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

I.A. 16481/2023

1. This application under Order VI Rule 17 read with Section 151 of CPC has been filed by Defendant No.2 for amendment of Written Statement.

1. The present Suit is one for declaration, partition, permanent injunction, and rendition of accounts with respect to property bearing No. M-9, Green Park Main, New Delhi, measuring 500 sq. yards (*hereinafter referred to as "the Suit Property"*).

2. For the sake of convenience, the averments in the Plaint are summarised hereinunder:



- i. It is stated that the Plaintiff and Defendants No.1 & 2 are the Legal Heirs of Late Major Satya Pal Sud and Late Smt. Promila Sud. The Plaintiff herein is the daughter of Late Major Satya Pal Sud and Late Smt. Promila Sud and the Defendant Nos. 1 and 2 are their sons.
- ii. It is stated that the Suit property was originally purchased by the Plaintiff's father in the name of her mother, Smt. Promila Sud from one Smt. Sneha Prabha Adya *vide* a registered perpetual lease deed dated 13.12.1957. It is stated that pursuant to a family arrangement in the early 1960s, the property stood transferred to the Plaintiff's father, Late Major Satya Pal Sud, who constructed a residential building on the said property consisting of a Ground Floor and First Floor.
- iii. It is stated that Major Satya Pal Sud passed away on 29.05.1967 *intestate* and the suit property devolved in equal shares upon Smt. Promila Sud, the Plaintiff herein and the Defendants herein. However, the mother of the parties was in possession of the suit property and has been drawing rent from the Ground Floor of the said property.
- iv. It is stated that the Plaintiff resided in the Suit Property until her marriage in 1977 and thereafter, she moved to Canada in 1989 and she is currently residing in the USA. It is stated that the Plaintiff used to visit India from time to time. It is stated that the Defendants got married in 1986 and started living separately. It is further stated that the mother of the Plaintiff continued to reside in the Suit Property.



- v. It is stated that in 1990, the Plaintiff and the Defendants executed affidavits dated 27.12.1990 thereby agreeing that the Suit property would not be partitioned by metes and bounds during the lifetime of their mother, and pursuant thereto, the property was mutated in the name of Smt. Promila Sud.
- vi. It is stated that Smt. Promila Sud passed away on 06.01.2016. It is alleged by the Plaintiff that shortly after the death of her mother, Defendant No.1 entered the Suit Property with the help of duplicate keys and removed valuables, including documents, jewellery, antiques and cash.
- vii. It is stated that the parties attempted to settle the disputes amicably in January–February 2016, however, the settlement talks failed, with Defendant No.1 refusing to partition the property and asserting his exclusive ownership over the Suit Property. It is stated that in the second round of settlement talks in January, 2016, the Defendant offered only 15% share in the Suit Property to the Plaintiff, which was refused by the Plaintiff.
- viii. It is stated that the Defendant No.1, acting in collusion with the tenant and showing himself as the landlord of the Suit Property, began collecting the entire rent of the Suit Property from January 2016 onwards.
- ix. It is stated that the Plaintiff sent a legal notice dated 02.05.2016 to the Defendants asserting her legal right over the Suit Property. It is stated that the said legal notice was replied to by the Defendants *vide* replied dated 14.05.2016 and 12.06.2016, wherein, for the first time they disclosed about a Will dated 25.11.2014,



purportedly executed by Smt. Promila Sud in favour of the Defendants.

- x. It is further stated that on approaching the Government Offices, the Plaintiff discovered that the Defendants have obtained a mutation dated 08.04.2016 in favour of Defendant No.1.
- xi. It is stated that the Plaintiff approached the Sub-Registrar office to get a copy of the Will dated 25.11.2014 and the same was provided to her on 31.08.2016. It is stated that on obtaining a copy of the Will dated 25.11.2014, the Plaintiff found that the said Will is forged. Accordingly, the Plaintiff filed a criminal complaint, being CC No.283/1 with the Deputy Commissioner of Police, South Delhi, Hauz Khas, on 25.11.2016 alleging fabrication of the Will. It is stated that the Magistrate took cognizance of the complaint on 30.08.2017 and granted opportunity to the Plaintiff to prove her case by leading evidence.
- xii. Contending that the Will dated 25.11.2014 is forged and fabricated, and the mutation obtained by the Defendants *qua* the Suit Property is illegal, the Plaintiff has approached this Court seeking the following:
 - a. Declaration that the Will dated 25.11.2014 is illegal, forged, fabricated, and unenforceable;
 - b. Declaration that the mutation order dated 08.04.2016 is void and inoperative;
 - c. Preliminary and final decree of partition of the suit property by metes and bounds, granting the Plaintiff her 1/3rd share;



- d. Permanent injunction restraining the Defendants from selling, transferring, alienating, or creating third-party interests in the property;
 - e. Rendition of accounts for rent wrongfully collected by Defendant No.1 from January 2016 onwards.
2. The present Application has been filed by Defendant No.2 for amending the Written Statement.
3. Summons in the Suit were issued on 08.02.2019. Written Statement on behalf of Defendant No.2 was filed on 03.05.2019. Issues are yet to be framed.
4. In the Written Statement, the Defendant No.2 has admitted almost all material averments in the Plaint. Defendant has also supported the Plaintiff's claim for equal partition of the Suit Property. It is stated in the Written Statement that their mother, late Smt. Promila Sud, loved all three children equally and had personally informed him on 17.12.2015, during her hospitalization, that she had made arrangements to divide the property equally among the Plaintiff and both the Defendants. Defendant No. 2 has further admitted that the Suit Property was purchased in 1957 in their mother's name and was later transferred to their father under a family arrangement in the early 1960s, and was subsequently constructed upon by their father. It is further stated that upon the death of his father in 1967, the property devolved equally upon his mother and all three children and was mutated accordingly. It is further stated that by a family understanding, all siblings executed affidavits in 1990 for mutation of the property exclusively in the mother's name, with the understanding that the property would not be partitioned during her lifetime. In the Written Statement, Defendant No. 2



also admits that their mother passed away on 06.01.2016, leaving behind only three legal heirs, i.e. the Plaintiff, Defendant No. 1, and Defendant No. 2. It is stated that their mother had repeatedly expressed her desire that all movable and immovable properties must be shared equally among her children. Defendant No. 2 has also narrated the events after their mother's demise, confirming meetings between the Plaintiff and Defendants No.1 & 2 in January and February 2016 where the Plaintiff sought amicable settlement and Defendant No. 1 refused equal partition, claiming exclusive ownership of the Suit Property and offering only 15% share to the Plaintiff in the Suit Property. In the Written Statement, the Defendant No.2 has supported the case of the Plaintiff that Defendant No. 1 removed all belongings, including documents, jewellery, cash, and other valuable movables, from the Suit Property without informing either the Plaintiff or Defendant No. 2. Defendant No. 2 has also confirmed receipt of the Plaintiff's legal notice dated 02.05.2016 and reiterated that in his reply dated 12.06.2016, he clearly stated that the Suit Property and all movables should be equally shared among all three siblings. In the Written Statement, the Defendant No.2 has denied of having any knowledge of the alleged Will dated 25.11.2014 prior to their mother's death. Throughout the Written Statement, Defendant No. 2 has distinguished his position from Defendant No. 1. He has denied any collusion with Defendant No.1 and has stated that he had no role in the execution of the purported Will dated 25.11.2014.

5. Now, the present application under consideration has been filed by the Defendant No.2 seeking amendment in the Written Statement. In the present Application, it is stated that Defendant No. 2 entered appearance on 29.03.2019 and was granted four weeks' time to file his Written Statement.



It is stated that since Defendant No.2 had spent most of his service life in the Indian Army and he was stationed outside Delhi, he had little knowledge of the daily affairs of the Suit Property or with the dealings of his late mother. It is stated that lacking direct information and constrained by time, Defendant No. 2 relied entirely on the Plaintiff's representations and assurances while preparing his Written Statement, which was filed on 03.05.2019. It is stated that the Plaintiff repeatedly told him that she possessed documentary evidence, including emails, call recordings, and WhatsApp chats, which allegedly showed that the Will dated 25.11.2014 was forged. It is stated that despite several requests of Defendant No.2, the Plaintiff never furnished any of the abovementioned supporting documents and she continued narrating her version of events to Defendant No. 2, reinforcing his initial belief that the Will was fabricated. It is stated that in the Suit, Mediation proceedings commenced on 08.01.2020 before the Delhi High Court Mediation Centre and continued through the COVID-19 pandemic, and during this time Defendant No. 2 undertook his own independent inquiries. It is stated that after the pandemic restrictions eased, Defendant No.2 visited the Sub-Registrar's office to inspect property records and attempted to locate and contact the attesting witnesses to the Registered Will. It is stated that after getting the details, personally spoke with them and discovered that the Will dated 25.11.2014 appeared to be genuine and that his mother was of sound mind at the time of execution of the Will, and that she had executed the Will voluntarily. It is further stated that Defendant No.2 also learned from the records that the Suit Property had always stood in the name of their mother as her absolute, self-acquired property, contrary to the Plaintiff's earlier claims that it was originally



purchased by their father or transferred through a family settlement. It is further stated that in criminal proceedings, which were initiated by the Plaintiff in 2016 under Section 156(3) CrPC alleging forgery in respect of the Will dated 25.11.2014, the Magistrate repeatedly directed the Plaintiff to appear and produce evidence and yet she failed to do so, leading to dismissal of the said proceedings for non-prosecution on 15.12.2022. It is stated that this dismissal further raised doubts in Defendant No. 2's mind about the accuracy of the Plaintiff's assertions. It is stated that between January 2020 and April 2023, the mediation process continued and prevented Defendant No. 2 from filing the amendment application earlier. It is stated that once Defendant No. 2 completed his independent verification, i.e. speaking to attesting witnesses, reviewing Sub-Registrar records, and considering the plaintiff's failed criminal complaint, it became clear to him that several earlier statements in his written statement filed on 03.05.2019 needed correction and, therefore, the present application under Order VI Rule 17 of the CPC, was filed on 14.08.2023. It is stated that the amendments broadly aim to incorporate his newly-discovered information regarding the genuineness of the Registered Will, the absence of documents supporting the Plaintiff's allegations, and the need for the Suit property to be divided according to the Registered Will dated 25.11.2014, executed by their mother. It is stated that these amendments are necessary to ensure a proper and just adjudication of the suit and that they are *bona fide*, and that no prejudice will be caused to the plaintiff.

6. For adjudication of the present application, it is pertinent to produce the stance of the Defendant No.2 in the Written Statement dated 03.05.2019 and the amendments sought in the present Application. The same reads as



under:

Issue / Subject	Position in Written Statement dated 03.05.2019	Position in Amendment Application
Registered Will dated 25.11.2014	Denies knowledge of any Will; treats Will as forged/invalid.	States Will is genuine, valid, duly executed; seeks its enforcement.
Mother's Wishes	Claims mother expressly told him to divide property equally among all three children (17.12.2015).	States earlier understanding was based on Plaintiff's statements; now claims mother intended testamentary distribution via Will.
Equal Partition of Property	Supports equal partition; admits Plaintiff's prayer; no objection to decree.	Opposes partition; wants suit dismissed based on Will; now aligns with Defendant No.1.
Ownership of Suit Property	Admits property devolved equally; supports Plaintiff's facts.	Claims property was absolute, self-acquired property of mother; challenges earlier admissions.
Conduct of Defendant No.1	Alleges Defendant No.1 removed valuables, acted unfairly; denies collusion.	Softens/withdraws allegations; indirectly supports Defendant No.1 via Will.
Plaintiff's Credibility	Implicitly trusts Plaintiff's version; supports suit based on her narrative.	Claims he was misled by Plaintiff; says Plaintiff used him as a pawn; disowns earlier stand.
2016 Reply to Legal Notice	Reaffirms correctness of 12.06.2016 reply supporting equal distribution.	States that 2016 reply was based on Plaintiff's misrepresentation; disowns it entirely.
Knowledge of Family Affairs	Claims detailed, personal knowledge of events (including mother's oral wishes).	Claims he had little knowledge due to Army postings; earlier facts were assumptions.
Position on Suit Outcome	Supports Plaintiff; states suit may be decreed as prayed for.	Seeks dismissal of Plaintiff's suit and enforcement of Will.
Reason for Change in Stand	No uncertainty in original WS; confident assertions.	Claims later discovery after contacting attesting witnesses, mediation discussions, and dismissal of Plaintiff's criminal complaint.

7. Reply to the present Application was filed by the Plaintiff wherein she has objected to the present Application on the ground that the admissions made by the Defendant No.2 in his Written Statement dated 03.05.2019 were not only signed, verified, and affirmed on oath but were also consistent



with Defendant No.2's earlier legal notice reply dated 12.06.2016, wherein he had independently reiterated his support for equal division and raised objections to Defendant No.1's conduct. It is stated that nearly four years later, Defendant No.2 sought to amend the Written Statement by wholly reversing his admitted position by asserting the genuineness of the Will dated 25.11.2014 and seeking dismissal of the Suit. It is stated that this amendment is a belated and an artificial attempt to retract clear admissions, introduce a contradictory defence to realign with Defendant No.1. It is stated that all facts and documents, including the Will, were already within Defendant No.2's knowledge when he filed the Written Statement on 03.05.2019 and affidavit of admission/denial. The Plaintiff therefore argues that the amendment is legally impermissible, lacks bona fides, and is intended only to defeat her claim and, therefore, the same be rejected.

8. Rejoinder to the said reply was filed by the Defendant No.2 wherein he has reiterated and clarified the circumstances in which his earlier Written Statement was drafted.

9. Before going further, it is pertinent to extract Order VI Rule 17 of the CPC and the same reads as under:

“17. Amendment of pleadings.—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.”

10. Order VI Rule 17 of the CPC permits amendment of pleadings at any stage, so long as such amendment is necessary for determining the real questions in controversy, and provided the application is not hit by the proviso restricting post-trial amendments. As issues in the present Suit have not yet been framed, the bar under the proviso does not come into operation.

11. The law relating to amendment of pleadings under Order VI Rule 17 of the CPC has been crystallized by the Apex Court in several cases. It is settled law that courts should have a liberal approach in allowing amendment of a pleadings. The Apex Court in Ganesh Prasad v. Rajeshwar Prasad & Ors, **2023 SCC OnLine SC 256**, has held as under:

“33. There cannot be any doubt or dispute that the courts should be liberal in allowing applications for leave to amend pleadings but it is also well settled that the courts must bear in mind the statutory limitations brought about by reason of the Code of Civil Procedure (Amendment) Acts; the proviso appended to Order VI Rule 17 being one of them. In North Eastern Railway Administration, Gorakhpur v. Bhagwan Das reported in (2008) 8 SCC 511, the law has been laid down by this Court in the following terms : (SCC p. 517, para 16).

“16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363] which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other



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side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. (Also see *Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwar* [(1990) 1 SCC 166].)”

34. In the case of *P.A. Jayalakshmi v. H. Saradha* reported in (2009) 14 SCC 525, the above observations were reiterated by this Court and in the light of the same, this Court in para 9 held as under:

“9. By reason of the Code of Civil Procedure (Amendment) Act, 1976, measures have been taken for early disposal of the suits. In furtherance of the aforementioned parliamentary object, further amendments were carried out in the years 1999 and 2002. With a view to put an end to the practice of filing applications for amendments of pleadings belatedly, a proviso was added to Order 6 Rule 17 which reads as under:

“17. Amendment of pleadings.—The court may at any stage of the proceedings allow either party to alter or amend his pleading 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.””

35. In *B.K. Narayana Pillai v. Parameswaran Pillai* reported in (2000) 1 SCC 712, this Court referred to



the following passage from *A.K. Gupta and Sons Ltd. v. Damodar Valley Corporation* reported in AIR 1967 SC 96 wherein, it was held as follows:—

“4. *This Court in A.K. Gupta & Sons Ltd. v. Damodar Valley Corpn. [AIR 1967 SC 96 : (1966) 1 SCR 796] held:*

“The general rule, no doubt, is that a party is not allowed by amendment to set up a new case or a new cause of action particularly when a suit on new case or cause of action is barred: Weldon v. Neal [[L.R.] 19 Q.B. 394 : 56 LJ QB 621]. But it is also well recognised that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation : See Charan Das v. Amir Khan [AIR 1921 PC 50 : ILR 48 Cal 110] and L.J. Leach and Co. Ltd. v. Jardine Skinner and Co. [AIR 1957 SC 357 : 1957 SCR 438]

The principal reasons that have led to the rule last mentioned are, first, that the object of courts and rules of procedure is to decide the rights of the parties and not to punish them for their mistakes (Cropper v. Smith [[L.R.] 26 Ch. 700 : 53 LJ Ch 891 : 51 LT 729]) and secondly, that a party is strictly not entitled to rely on the statute of limitation when what is sought to be brought in by the amendment can be said in substance to be already in the pleading sought to be amended (Kisandas Rupchand v. Rachappa Vithoba Shilwant [ILR (1909) 33 Bom 644 : 11 Bom LR 1042] approved in Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363 : 1957 SCR 595]).

The expression ‘cause of action’ in the present context



does not mean ‘every fact which it is material to be proved to entitle the plaintiff to succeed’ as was said in Cooke v. Gill [[L.R.] 8 C.P. 107 : 42 LJCP 98 : 28 LT 32] in a different context, for if it were so, no material fact could ever be amended or added and, of course, no one would want to change or add an immaterial allegation by amendment. That expression for the present purpose only means, a new claim made on a new basis constituted by new facts. Such a view was taken in Robinson v. Unicos Property Corpn. Ltd. [[1962] 2 All ER 24 (CA)] and it seems to us to be the only possible view to take. Any other view would make the rule futile. The words ‘new case’ have been understood to mean ‘new set of ideas’ : Dornan v. J.W. Ellis and Co. Ltd. [[1962] 1 All ER 303 (CA)] This also seems to us to be a reasonable view to take. No amendment will be allowed to introduce a new set of ideas to the prejudice of any right acquired by any party by lapse of time.”

Again in Ganga Bai v. Vijay Kumar [(1974) 2 SCC 393] this Court held : (SCC p. 399, para 22)

“The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the court.”

“4. It is clear from the foregoing summary of the main rules of pleadings that provisions for the amendment of pleadings, subject to such terms as to costs and giving of all parties concerned necessary opportunities to meet exact situations resulting from amendments, are intended for promoting the ends of justice and not for



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defeating them. Even if a party or its counsel is inefficient in setting out its case initially the shortcoming can certainly be removed generally by appropriate steps taken by a party which must no doubt pay costs for the inconvenience or expense caused to the other side from its omissions. The error is not incapable of being rectified so long as remedial steps do not unjustifiably injure rights accrued.”.....”

37. Thus, the Plaintiffs and Defendant are entitled to amend the plaint, written statement or file an additional written statement. It is, however, subject to an exception that by the proposed amendment, an opposite party should not be subject to injustice and that any admission made in favour of the other party is not but wrong. All amendments of the pleadings should be allowed liberally which are necessary for determination of the real controversies in the suit provided that the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken.

38. Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings.”

12. In addition, the Apex Court in Life Insurance Corporation of India v. Sanjeev Builders Private Limited, (2022) 16 SCC 1, after analysing several case laws has summarised the law regarding amendment of pleadings as under:-

“71. Our final conclusions may be summed up thus:



71.3. The prayer for amendment is to be allowed:

71.3.1. If the amendment is required for effective and proper adjudication of the controversy between the parties.

71.3.2. To avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment do not seek to withdraw any clear admission made by the party which confers a right on the other side, and

(c) the amendment does not raise a time-barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

71.4. A prayer for amendment is generally required to be allowed unless:

71.4.1. By the amendment, a time-barred claim is sought to be introduced, in which case the fact that the claim would be time-barred becomes a relevant factor for consideration.

71.4.2. The amendment changes the nature of the suit.

71.4.3. The prayer for amendment is mala fide, or

71.4.4. By the amendment, the other side loses a valid defence.

71.5. In dealing with a prayer for amendment of



pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

71.6. Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

71.7. Where the amendment merely sought to introduce an additional or a new approach without introducing a time-barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

71.8. Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

71.9. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

71.10. Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

71.11. Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a



chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi [Vijay Gupta v. Gagninder Kr. Gandhi, 2022 SCC OnLine Del 1897] .)”

13. Having considered the submissions of the parties and examined the material on record, this Court is of the view that the proposed amendment deserves to be allowed on several grounds.

14. First, it is not disputed that the trial has not yet commenced and issues are yet to be framed. Therefore, the law mandates a liberal approach in allowing such applications. The timing of the present application places it squarely within the category of pre-trial amendments where Courts are required to be flexible, as the opposite party will still have full opportunity to traverse the amended pleadings and no procedural prejudice will be caused to the Plaintiff.

15. Second, the amendment sought does not introduce a new cause of action or a defence based on a new factual foundation. The existence, execution, and validity of the Will dated 25.11.2014 have always been central to the dispute between the parties, and are already pleaded in the Plaint. The Plaintiff herself seeks a declaration that the Will is forged, fabricated, and unenforceable. Thus, the genuineness of the Will is indisputably a “real question in controversy”, and amplifying the Defendant



No. 2's stand regarding the Will merely clarifies his position on an issue already embedded in the pleadings. It does not enlarge the scope of the suit or introduce foreign elements.

16. Third, while it is correct that the amendment contains assertions inconsistent with the earlier Written Statement, inconsistency by itself is not fatal in the case of a Written Statement. The Apex Court has consistently held that a Defendant is entitled to take alternative, even inconsistent, defences, provided no new cause of action is introduced and the opposite party is not irreparably prejudiced. Unlike Plaintiffs, Defendants are permitted greater latitude in modifying their stand, since the Written Statement is not required to be as rigidly structured as a Plaint (Refer: Baldev Singh v. Manohar Singh, (2006) 6 SCC 498).

17. Fourth, this Court is satisfied that the explanation furnished by Defendant No. 2 regarding his earlier limited knowledge, reliance on Plaintiff's statements, and subsequent independent verification, constitutes a *plausible and bona fide justification* for seeking amendment. The material relied upon by Defendant No. 2, namely, interactions with the attesting witnesses, inspection of the Sub-Registrar's records, and the dismissal of the Plaintiff's criminal complaint, are subsequent events or later-acquired information which reasonably justify a course correction. These facts could not have been pleaded earlier despite due diligence.

18. Fifth, the Plaintiff will not suffer any injustice. She will have ample opportunity to file a replication to the amended Written Statement, lead evidence on the Will, and contest Defendant No. 2's revised stance at trial. The Plaintiff's substantive rights are therefore fully preserved. Mere withdrawal or modification of an earlier admission does not, by itself,



constitute prejudice sufficient to deny amendment, especially when the alleged admission is neither unequivocal nor foundational to vesting any accrued or indefeasible right in the Plaintiff.

19. Sixth, the amendment would assist the Court in rendering a comprehensive and effective adjudication of the central issue, namely, the validity of the Will. In the opinion of this Court, allowing the amendment avoids multiplicity of proceedings, ensures that the Court has the benefit of the complete defence, and prevents fragmented adjudication. The Apex Court in Sanjeev Builders (supra) has emphasized that where an amendment helps the Court in “pin-pointedly considering the dispute,” such amendment must ordinarily be allowed.

20. Seventh, rejecting the amendment at this stage would result in the defence of Defendant No. 2 being irreversibly curtailed and the Court deciding the matter on an incomplete and potentially inaccurate version of facts. Procedural rules are intended to advance the cause of justice, not to punish a party for earlier drafting errors or imperfect pleadings. The present case falls squarely within the principle laid down by the Apex Court in A.K. Gupta v. Damodar Valley Corp., **AIR 1967 SC 96**, which states that amendments must be allowed where they amount to only a different or additional approach to the same set of facts.

21. In view of the above, this Court is persuaded to conclude that the amendment is necessary for determining the real questions in controversy, and does not cause any irreparable prejudice to the Plaintiff. The application therefore satisfies the tests laid down by the Apex Court in the judgments cited about and other binding precedents.

22. Accordingly, the application is allowed.



23. Defendant No. 2 is permitted to amend his Written Statement in terms of the proposed amendments annexed to the application.
24. Let the amended Written Statement be taken on record.
25. The Plaintiff is at liberty to file a replication within the time prescribed under the Delhi High Court (Original Side) Rules, 2018.
26. The Application is disposed of.

CS(OS) 84/2019 & I.A. 7885/2025

List before the Joint Registrar on 13.01.2026.

SUBRAMONIUM PRASAD, J

NOVEMBER 26, 2025

Rahul