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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 15/2021 & I.A. 306/2021, 2531/2021, 8513/2022**
RAJ KUMAR SETHIPlaintiff
Through: Mr. Harkirat Sawhney and Ms. Rati
Coshic, Advs.

versus

ASHOK KUMAR SETHI & ORS.Defendants
Through: Mr. Rajesh Mahindru, Adv. for D-1 &
D-2.
Ms. Beenasahw N. Soni, Adv. for D-5
& D-6.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

% **ORDER**
13.09.2024

I.A.9710/2021 (by plaintiff under Order VI Rule 17 CPC read with Section 151 CPC seeking amendment of plaint)

1. By way of present application, the plaintiff seeks to amend the plaint.
2. The learned counsel for the plaintiff submits that the suit was originally filed in Tis Hazari Court, where the plaint was returned under Order VII Rule 10 CPC on 28.01.2020 and thereafter, the plaint was re-filed in this Court in July 2020.
3. He submits that in the written statement filed by the defendant nos. 1 and 2, it was disclosed for the first time that the defendant no.1 has sold part of the suit property to the defendant nos. 5 and 6 which necessitated the filing of the present amendment application.
4. He further submits that prior to moving an application under Order VI



Rule 17 CPC, he had filed an application under Order I Rule 10 CPC seeking impleadment of the purchasers of part of the suit property as defendant nos. 5 and 6 before the District Court. The said application was allowed by the learned Additional District Judge on 19.12.2018. He submits that prior to the impleadment of defendant nos. 5 and 6, he could not have sought amendment of the plaint.

5. The learned counsel for the defendant nos. 1 and 2 submits that he has no objection on the limitation part, however, there is flaw in the proposed amendment sought, in as much as, though the plaintiff is seeking to insert two declaratory reliefs but there are no corresponding amendments sought in so far as valuation and affixation of Court Fee on the said reliefs is concerned. He further submits that since amendment has been sought belatedly, therefore, cost should be imposed while allowing the application.

6. On a query posed by the Court, the learned counsel for the plaintiff submits that he has already paid sufficient Court Fee on the relief of declaration sought by him and there is no need for further amending the plaint, in so far as the valuation and affixation of Court Fee is concerned. The statement is taken on record.

7. In view of the above, the application is allowed and the amended plaint is taken on record, subject to the cost of Rs. 20,000/- to be paid to the defendant nos. 1 and 2.

8. The application stands disposed of.

CS(OS) 15/2021

9. The defendant nos. 1 and 2 are permitted to file the written statement to the amended plaint and likewise, the defendant nos. 5 and 6 are also permitted to file the written statement to the amended plaint in accordance with law.



The defendant nos. 3 and 4 are stated to be *ex parte*.

10. List before the learned Joint Registrar for completion of pleadings, admission/denial and marking of exhibits on 24.10.2024.
11. List before Court on 10.01.2025.
12. Interim orders, if any, to continue.

VIKAS MAHAJAN, J

SEPTEMBER 13, 2024/dss