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

+ CS(COMM) 22/2018, I.A. 12491/2019, I.A. 11907/2022, I.A. 11911/2022 & I.A. 19774/2022

DR. NARENDER KUMAR SHARMA & ORSPlaintiffs

Through: Mr. Ashim Vachher, Sr. Advocate
with Mr. Vinayak Uniyal and Ms.
Saiba M. Rajpal, Advocates.

versus

MAHARANA PRATAP EDUCATIONAL CENTER & ANOTHER
.....Defendants

Through: Mr. Nikhilesh Krishnan with Mr. Jai
Pratap, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **08.10.2025**

I.A. 7587/2023 (by defendant – u/O VI R 17 CPC)

1. Heard learned counsel appearing for the parties on the instant I.A. By way of the instant application, learned counsel appearing for the defendants seeks to incorporate paragraph no.24 in his preliminary submission of the written statement.

2. Mr. Vaccher, learned senior counsel appearing for the plaintiffs, submits that by way of the said amendment the defendants seek to alter their plea which they had initially taken in their written statement. Mr. Vaccher has taken this Court through paragraph numbers 20 and 24 of the plaint and the reply to those paragraphs in the written statement filed by the defendants and contends that in response to the averments made by the plaintiffs



therein, the defendants had not specifically denied the same in their written statement. He asserts that it is only after five years, by way of the instant application, that a new plea of fabrication of the agreement dated 26.12.2015 is sought to be incorporated. Mr. Vaccher also submits that the defendants by way of the instant application are trying to wriggle out of the admission made in the written statement.

3. On the other hand, Mr. Nikhilesh Krishnan, learned counsel appearing for the defendants submits that there is no admission by the defendants in their written statement with respect to the genuineness of agreement dated 26.12.2015. He submits that by way of the instant application, the defendants seek to explain the circumstances and the authenticity of the said document. He submits that the suit is at initial stage, the issues having not yet been framed, and in view of the law laid down by the Supreme Court in the case of ***Usha Balashaheb Swami & Ors. v. Kiran Appaso Swami & Ors. (2007) 5 SCC 602***, the amendment is permissible.

4. I have considered the submissions made by the learned counsel appearing for the parties and have perused the record.

5. Paragraph numbers 20 and 24 of the plaint are extracted as under:

“20. That on account of the failure of the defendant number 1 to fulfil its obligations as mandated in the MOU dated 11th of September 2015, the MOU became voidable at the option of the plaintiffs. However, they chose not to do so.

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24. That under the circumstances, fearing lest the MOU should be treated as null and void by the plaintiffs, the defendant number 1 requested the plaintiffs to enter into a fresh agreement. Conceding this request of the defendant number 1 through the defendant number 2, the plaintiffs agreed to arrive at a fresh understanding with the defendant number 1. The defendant number 2, in view of this assurance, produced two agreements dated 26th of December 2015



before the plaintiff no.1 acting on behalf of the remaining plaintiffs. Believing in the bona fides of the defendant number 2, the plaintiff number 1 signed both the agreements on behalf of the remaining plaintiffs.”

6. The reply to these two paragraphs in the written statement filed by the defendants is also extracted as under:

“20. Since the plaintiffs are in default and guilty of breach of agreement hence Voidability of the agreement at their option is not matter of question.

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24. That with regard to the reply of the contents in this para, it is submitted that the reply given to para no 20 may please be taken into consideration.

25. It is respectfully submitted that no such fact ever brought to the knowledge of the defendants the plaintiff may be put to the strict proof of the same.

26. It is respectfully submitted that no such fact ever brought to the knowledge of the defendants the plaintiffs may be put to the strict proof of the same.”

7. A bare perusal of the contents made in the written statement by the defendants it nowhere indicates that the genuineness of the agreement dated 26.12.2015 was specifically admitted by the defendants. Mr. Vaccher’s submission that unless the fact is specifically denied they deemed to have been admitted is concerned, the same would not apply at this stage as the suit is at its initial stage where the issues have yet not been framed and the trial actually has not begun. The Supreme Court in the case of ***Usha Balashaheb Swami & Ors. v. Kiran Appaso Swami & Ors.*** (supra) in paragraphs 20 to 22 has held as under:

“20. Such being the settled law, we must hold that in the case of



amendment of a written statement, the courts are more liberal in allowing an amendment than that of a plaint as the question of prejudice would be far less in the former than in the latter case [see *B.K. Narayana Pillai v. Parameswaran Pillai* (2000)1 SCC 712 and *Baldev Singh & Ors. v. Manohar Singh* (2006) 6 SCC 498]. Even the decision relied on by the plaintiff in *Modi Spinning* (supra) clearly recognises that inconsistent pleas can be taken in the pleadings. In this context, we may also refer to the decision of this Court in *Basavan Jaggu Dhobi v. Sukhnandan Ramdas Chaudhary (Dead)* [1995 Supp (3) SCC 179]. In that case, the defendant had initially taken up the stand that he was a joint tenant along with others. Subsequently, he submitted that he was a licensee for monetary consideration who was deemed to be a tenant as per the provisions of Section 15A of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. This Court held that the defendant could have validly taken such an inconsistent defence. While allowing the amendment of the written statement, this Court observed in *Basavan Jaggu Dhobi's* case (supra) as follows :-

"3. As regards the first contention, we are afraid that the courts below have gone wrong in holding that it is not open to the defendant to amend his statement under Order 6 Rule 17 CPC by taking a contrary stand than was stated originally in the written statement. This is opposed to the settled law open to a defendant to take even contrary stands or contradictory stands, the cause of action is not in any manner affected. That will apply only to a case of the plaint being amended so as to introduce a new cause of action."

21.As we have already noted herein earlier that in allowing the amendment of the written statement a liberal approach is a general view when admittedly in the event of allowing the amendment the other party can be compensated in money. Technicality of law should not be permitted to hamper the Courts in the administration of justice between the parties. In the case of *L.J. Leach and Co. Ltd. v. Jardine Skinner and Co.* [AIR 1957 SC 357], this Court observed "that the Courts are more generous in allowing amendment of the written statement as the question of prejudice is less likely to operate in that event". In that case this Court also held "that the defendant has right to take alternative plea in defence which, however, is subject to an exception that by the proposed amendment the other side should not be subjected to serious injustice."

22. Keeping these principles in mind, namely, that in a case of amendment of a written statement the Courts would be more liberal in allowing than that of a plaint as the question of prejudice would be far



less in the former than in the latter and addition of a new ground of defence or substituting or altering a defence or taking inconsistent pleas in the written statement can also be allowed, we may now proceed to consider whether the High Court was justified in rejecting the application for amendment of the written statement.”

8. In the aforesaid context if the nature of the amendment sought to be incorporated is perused it will indicate that the defendants are trying to explain the circumstances and to challenge the authenticity of the agreement dated 26.12.2015. The amendment in paragraph no.24 which is sought to be incorporated is extracted as under:

“24. it is stated that so far as said alleged agreement dated 26.12.2022 relied by the plaintiff in para 24 & 25 of the plaint, is concerned, said alleged agreement dated 26.12.2015 filed at pages 106-111 by the plaintiff is Denied by the defendants as first page at Page No.106 is bearing forged signature of defendant no. 2 & 2nd Page has forged signature of witness Mr. Dhananjay Awasthi and regarding the signature of the defendant no. 2 on behalf of defendant no. 1, though the signature is of defendant no. 2 but signature on blank paper has been used to fabricate the same.

Further another alleged agreement dated 26.12.2015 relied by the plaintiff in para 26 of the plaint filed at pages 112-118, is also denied by the defendants as same is bearing forged signatures of the defendant no. 2 and of witness Mr. Dhananjay Awasthi.

Hence, as said alleged agreement dated 26.12.2015 being forged and as such there is fraud played by the plaintiff, present suit relying said forged document is liable to be dismissed on this ground also.”

9. Having considered the overall facts and circumstances including the fact that the issues have yet not been framed and the trial has yet not begun. The amendment does not amount to withdrawal of the admission of setting



out altogether new case. In the interest of justice, the instant application stands allowed.

10. Ten working days' time is granted to the defendants to file the amended plaint. Since the amendment application has been filed after about five years from the filing of the original written statement, the Court deems it appropriate to impose the cost of ₹25,000/- on the defendants. The same shall be paid to the plaintiffs. From the date of receipt of the amended written statement, the plaintiffs shall be entitled to file the replication within thirty days.

11. It is clarified that in amendment application there seems to be typographical error and instead of agreement dated 26.12.2015 it has been mentioned as 26.12.2022. Let the amended written statement to incorporate the correct date.

12. Let the matter be listed before the Joint Registrar on 04.12.2025 for taking up further steps in accordance with the extant rules.

PURUSHAINDRA KUMAR KAURAV, J

OCTOBER 8, 2025

tr/amg