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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 221/2021 & I.A. 5511/2021**

GEETANJALI UPPAL & ORS.Plaintiffs

Through: Mr. Arush Bhandari and Mr. Shimran
Shah, Advocates

versus

RAJIV CHABBRA & ANR.Defendants

Through: Dr. B.T. Kaul, Mrs. Bhavana Hali
Kaul, Mr. Pranjal Jaiswal, and
Advocates for D-1
Mr. Alok Kumar, Advocate for D-2

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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03.10.2024

I.A. 16238/2022 (under Order VI Rule 17 read with Section 151 CPC for amendment of plaint)

1. The present application has been filed by the plaintiffs/applicants praying for amendment to the plaint.
2. Learned counsel appearing on behalf of the plaintiff submits that the present suit was filed seeking partition of the suit property and rendition of accounts. The plaintiffs' late mother was sister of defendant nos. 1 and 2.
3. He submits that in the written statement filed by the defendants they have propounded a Will dated 09.09.1989 registered on 17.12.1991, purported to have been executed by late Smt. Shanti Devi. Further, the case of the defendants in the written statement is that the late mother of the plaintiffs had executed a Relinquishment Deed 09.07.1991.
4. He submits that the aforesaid documents were not within the knowledge of the plaintiff at the time of filing the suit and the plaintiffs gained



knowledge about the existence of said documents only after written statement was filed by the defendants, which has necessitated the filing of present application under Order VI Rule 17 CPC.

5. I am of the view that in light of the stand taken by the defendant in the written statement that there exists a Will dated 09.09.1989 executed by late Smt. Shanti Devi and a Relinquishment Deed 09.07.1991 purportedly executed by the late mother of the plaintiffs, the original relief of partition sought by the plaintiff has become inappropriate, especially when the said documents oust the plaintiff from inheriting the suit property. Thus, it has become imperative for the plaintiff to challenge the subsequent Will and the Relinquishment Deed which came to their knowledge only after filing of the written statement.

6. It is also apposite to note here that the instant suit is at the initial stage and no prejudice will be caused to the defendants if the plaint is allowed to be amended. It is also a trite law as noted by the Hon'ble Supreme Court in ***Laxmi & Co. vs. Dr Anant R. Deshpande & Anr., AIR 1973 SC 171*** that where subsequent to the institution of the suit events happen which give the plaintiff a new cause of action for the relief claimed or the right to a new or additional relief, he will, as a general rule, be allowed to amend the plaint by moulding it in an appropriate manner.

7. In view of the above, this Court deems it appropriate to allow the present application. Accordingly, the application is allowed. The amended plaint filed along with the application is taken on record.

8. The application stands disposed of.

I.A. 2001/2022 (under Order VII Rule 11 read with Section 151 CPC filed by defendant no. 1)



9. Learned counsel appearing on behalf of defendant no. 1/applicant submits that since the amendment of the plaint has been allowed, therefore, defendant no. 1 will have to file a fresh application under Order 7 Rule 11 CPC in the light of averments in the amended plaint. Therefore, he seeks to withdraw the present application with liberty to file fresh application.

10. Accordingly, the application is dismissed as withdrawn with liberty as aforesaid.

11. The application stands disposed of

CS(OS) 221/2021& I.A. 5510/2021 (under Order XXXIX Rules 1 and 2 CPC for grant of ad-interim ex-parte injunction)

12. Let written statement to the amended plaint be filed within a period of thirty days. Replication thereto, be filed within 30 days thereafter.

13. List before the learned Joint Registrar for completion of pleadings, admission/denial of the documents and marking of exhibits on 04.12.2024.

14. List before Court for framing of issues on 06.02.2025.

VIKAS MAHAJAN, J

OCTOBER 3, 2024
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