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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 63/2018 & I.A. 8276/2008, I.A. 14/2019,
M/S AMBIKA INDUSTRIAL CORPORATION Plaintiff
Through: *Appearance not given.*

versus

M/S AMBIKA EXPORTS PRIVATE LIMITED Defendant
Through: Mr. Amit Jain and Ms. Sreelakshmi
Menon, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **21.03.2023**

I.A. 18267/2022 (under Order VI Rule 17 r/w Section 151 of the Code of Civil Procedure, 1908 on behalf of Plaintiff seeking amendment of plaint)

1. By way of this instant application, Plaintiff seeks to amend paragraph No. 3A of the plaint in order to incorporate details pertaining to change in constitution of Plaintiff-firm due to retirement of certain partners, after the filing of the suit.
2. The application is strongly opposed by counsel for Defendant, arguing that Plaintiff is, time and again, introducing fresh documents after issues have been framed and trial has commenced. He states that in July 2019, Plaintiff filed an application [being I.A. No. 10114/2019] under Order XI Rule 1(5) of the Code of Civil Procedure, 1908 as amended by the Commercial Courts Act [“CPC”], seeking leave to file certain additional documents. The Deed of Retirement, which forms basis of present



application, is dated 31st March, 2019, yet there was no mention of the said Deed in the said application. That apart, he argues that the Deed of Retirement was executed in 2019, but the instant application was filed only in October, 2022. There is considerable delay in filing of present application and in absence of any justifiable cause, as per the applicable provisions, Plaintiff cannot be allowed to amend the pleadings.

3. The Court has considered the above-noted objections. Issues in this matter were framed *vide* order dated 11th August, 2017, but the Deed of Retirement was executed subsequent thereto. Since the proposed amendment is only for bringing on record the change in constitution of the firm, which has occurred subsequent to framing of issues, in the opinion of the Court, proviso to Order VI Rule 17 of CPC would not be applicable as the Plaintiff could not have sought this amendment before the commencement of trial. However, for the delay caused, Plaintiff must be burdened with costs for the delay in filing the application.

4. Therefore, for the foregoing reasons, subject to Plaintiff paying a cost of Rs. 25,000/- to Defendant, the application is allowed. Amended plaint stated to have been filed, is not on record. Let the same be placed on the Court's file in two weeks' time, after curing the defects. The amended plaint shall strictly be in terms of proposed changes mentioned in paragraph No. 6A of the application.

5. Since Plaintiff proposes to amend only paragraph No. 3A of the plaint and no other part, Defendant is permitted to file additional pleadings in response to the said amendment, within a period of five weeks from today. It is clarified that the additional pleadings shall be limited only to the above aspect.



6. List for further directions on 06th July, 2023.

SANJEEV NARULA, J

MARCH 21, 2023

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(Corrected and released on 30th March, 2023)