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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 329/2019 & IA 8795/2019**
ANKIT GUPTA & ORS. Plaintiffs
Through Mr.Jagdeep Kr. Sharma, Adv.

versus

VINEET JAIN & ORS. Defendants
Through Ms.Smita Mann, Adv. for D-3 to 10.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

% **ORDER**
04.03.2022

I.A. No.2554/2022 (u/Section 151 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Listing of I.A. No.7207/2020)

1. This is an application filed by the plaintiffs praying for a direction that IA No.7207/2020 be listed before the Court for disposal.
2. The application has been necessitated in view of the order passed by the learned Joint Registrar (Judicial) on 01.02.2022, directing that since the amendment sought by way of I.A. No.7207/2020 is substantial in nature, the same is beyond the mandate of the Joint Registrar (Judicial) to adjudicate.
3. In view of the above, the application is allowed and I.A. No.7207/2020 is taken up for hearing today itself.

I.A. No.7207/2020 (u/Order VI Rule 17 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Amendment of Complaint)

1. By this application, the plaintiffs pray for leave of this Court to amend the complaint in terms of paragraph 4 of the said application.



2. The learned counsel for the plaintiffs submits that the said amendment has been necessitated in view of the written statement filed by the defendants raising a cloud on the title of the plaintiffs to the suit land being Khasra No.52/11/2 Min. East (0-04) and 20 min East -(1-03) admeasuring 1 Bigha and 7 Biswas situated in the Revenue Estate of Village Mehrauli, New Delhi. By way of the amendment, the plaintiffs primarily seek an additional prayer of declaration of their title to the suit land.

3. The learned counsel for the defendant nos.3 to 10 submits that the amendment sought is not *bona fide*.

4. In my opinion, as the issues in the suit are yet to be framed and the amendment sought is primarily because of the cloud to the ownership of the suit land raised by the defendants in their written statement, the amendment in the plaint deserves to be allowed. This shall, however, not preclude the defendants from raising all their objections to the claim of the plaintiffs, including that of limitation, in their written statement that may be filed to the amended plaint.

5. As far as the defendant no.1 is concerned, neither has any reply been filed to the application nor has he been represented before this Court. In fact, his right to file reply to the present application was closed by the order dated 16.11.2021 passed by the Joint Registrar (Judicial).

6. As far as the defendant no.2 is concerned, the same is the position wherein neither any reply has been filed nor is she represented before this Court.

7. In view of the above, the application is allowed. The amended plaint is taken on record. The defendants are granted an opportunity to file their written statement to the amended plaint within 30 days. Affidavit of



admission/denial of documents of the plaintiffs shall be filed by the defendants along with their written statement, failing which the written statement shall not be taken on record. The defendants may also file additional documents along with the written statement.

8. The plaintiffs may file the replication(s) within four weeks of receipt of written statement(s) to the amended plaint along with their affidavit of admission/denial of documents filed by the defendants. In case such affidavit is not filed, the replication shall not be taken on record.

9. List before the Joint Registrar (Judicial) for marking of exhibits and further proceedings on 21st July, 2022.

10. List before the Court on 1st September, 2022.

NAVIN CHAWLA, J

MARCH 4, 2022
RN/U.