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

CNR No. DLHC010286262023

+ **CS(OS) 441/2023**

SH. SUBHASH CHANDRA JARODIAPlaintiff

Through: Mr. Subhash Chandra Jarodia,
Plaintiff in person

versus

SH. VIJAYINDER KUMAR & ORS.Defendants

Through: Mr. Ashutosh Nagar, Ms. Jahanvi
Raj, Advocates for D-1

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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30.07.2026

I.A. 1216/2025

1. The present application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") has been filed on behalf of the Plaintiff, seeking amendment of the Plaint and for taking the amended Plaint on record.

2. According to the plaint, the facts leading to the filing of the present suit are as follows:

- a. It is stated that Late Sh. Chander Bhan, i.e. the father of the Plaintiff and the Defendants, purchased the suit property bearing no. M-111, Saket, New Delhi-110017 in the late 1970s, through a General Power of Attorney. It is stated that although



the property stood in the name of late Sh. Chander Bhan, it was acquired and constructed with the financial assistance of the Plaintiff, his wife and the other defendants, who were then living together as a Joint Hindu Family. It is alleged that late Sh. Chander Bhan, being employed as a clerk with a modest salary, did not possess the financial means to independently purchase the land and construct the building.

- b. It is further stated that, in his old age, late Sh. Chander Bhan suffered from several ailments, remained bedridden for the last several years of his life and became completely dependent upon his children for his daily needs. It is stated that during January/February 2021, Defendant No.1 took him from the family home at Saket to his residence in Dwarka on the pretext of providing better medical treatment. It is stated that Defendant No.1 thereafter isolated late Sh. Chander Bhan from the other siblings and, by taking advantage of his physical condition and dependence, compelled him to execute a Gift Deed in respect of the suit property in favour of Defendant No.1 through coercion and undue influence.
- c. The plaintiff alleges that the Gift Deed suffers from several legal infirmities, including execution under coercion and undue influence, insufficient payment of stamp duty, presence of consideration despite being styled as a gift, absence of independent witnesses, and non-compliance with the provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899. On these grounds, the plaintiff seeks a declaration that the Gift



Deed is null and void.

- d. It is further stated that while obtaining a copy of the written statement filed by Defendant No.1 in an earlier partition suit, being CS(OS) No.148/2023, instituted by Defendant No.4, the plaintiff came to know for the first time that Defendant No.1 was also relying upon a registered Will dated 26.07.2017, which was executed by late Sh. Chander Bhan in favour of the Defendant No.1 herein. Plaintiff claims that none of the other legal heirs of late Sh. Chander Bhan had any knowledge of the said Will. It is the case of the Plaintiff that the said Will was executed under suspicious circumstances.
 - e. It is stated that the plaintiff attempted to amicably resolve the dispute and partition the suit property amongst all the legal heirs of late Sh. Chander Bhan. However, as no settlement could be reached, the plaintiff instituted the present suit seeking declaration of the Gift Deed and the Will as being null and void, partition and possession of the suit property, and a permanent injunction restraining Defendant No.1 from creating third-party rights in the property.
3. Summons in the present Suit were issued on 28.07.2023.
 4. During the pendency of the Suit, the Plaintiff has filed the present application under Order VI Rule 17 of CPC, seeking amendment of the plaint by which the plaintiff seeks to incorporate additional consequential reliefs of declaration of co-ownership, partition and possession in the present suit, amend the title of the suit accordingly, and make consequential amendments in the valuation paragraph and court fees.



5. By way of the present Application, the Plaintiff seeks incorporation of the following amendments in the plaint:

I. Proposed insertion of clauses [bb], [bc], [bd] & [be] in the prayer clause

“bb) Pass a preliminary decree of Partition in favour of the Plaintiff/Sh. Subhash Chandra Jarodia, thereby determining the share of the Plaintiff to be 1/5th owner in the 'Suit-Property' bearing No. M-111, Saket, New Delhi-110017; and/or;

bc) Appoint a commissioner to inspect the 'Suit-Property' bearing No. M-111, Saket, New Delhi-110017 with directions to explore the mode, manner and method of partitioning the 'Suit-Property'; and/or;

bd) Pass a final decree of Partition of the 'Suit-Property' bearing No. M-111, Saket, New Delhi-110017 by metes and bounds; and/or;

be) Pass Directions to sell the 'Suit-Property' in case severance is not possible by metes and bounds and to give 1/5th share of the total sale consideration to the Plaintiff; and/or;”

II. Amendment of Paragraph 77

Original Para:

“77. That the plaintiff along with other defendants are in actual as well as constructive possession of the suit property.”

Amended Para:

“77. That the plaintiff is in constructive possession of the 'Suit-Property'.”



III. Proposed insertion of clause [bf] in the prayer clause

“bf) Pass a decree of possession, putting the Plaintiff in separate and independent possession of his 1/5th share in the 'Suit-Property' bearing No. M-111, Saket, New Delhi-110017; and/or;”

IV. Proposed insertion of clause [ba] in the prayer clause

“ba) Pass a decree declaring the plaintiff/Sh. Subhash Chandra Jarodia as co-owner of the 'Suit-Property' bearing No. M-111, Saket, New Delhi-110017, being Joint Family Property; and/or;”

V. Amendment of the title of the suit

Original Title:

"SUIT FOR DECLARATION, POSSESSION AND PERMANENT INJUNCTION"

Proposed Amended Title:

"SUIT FOR DECLARATION, PARTITION, POSSESSION AND PERMANENT INJUNCTION".

VI. Amendment of Paragraph 86 (Valuation and Court Fee)

The plaintiff seeks substitution of Paragraph 86 by incorporating valuation of the newly added reliefs of partition, possession and declaration of co-ownership in the manner stated as follows:

“(i) For the relief of seeking declaration of the



registered 'Gift Deed' as null and void (clause [a] of prayer), and the consequential reliefs of seeking partition (clause [bb], [bc], [bd] & [be] of prayer) and possession (clause [bf] of prayer), the suit has been valued at Rs. 3,00,00,000/- (Rs. three crores only) and an ad-valorem Court Fee of Rs. 60,000/- (Rupees Sixty thousand only) in respect of 1/5th share of the Plaintiff in the 'Suit-Property' has been affixed.

(ii) For the relief of seeking declaration of the registered 'Will' as null and void (clause [b] of prayer), the suit has been valued at Rs. 200/- (Rs. two hundred only) and an ad-valorem Court Fee of Rs. 20/- (Rupees twenty only) has been affixed.

(iii) For the relief of seeking declaration of the Plaintiff as a Co-owner of the 'Suit-Property', being a joint-family property (clause [ba] of prayer), the suit has been valued at Rs. 200/- (Rs. two hundred only) and an ad-valorem Court Fee of Rs. 20/- (Rupees twenty only) has been affixed.

(iv) For the relief of permanent injunction (clause [c] of prayer), the valuation for the suit is fixed at Rs. 130/- (Rupees one hundred thirty only) and a court fee of Rs. 13/- (Rupees thirteen only) has been affixed.

That a total Court-Fee of Rs. 60,053/- (Rupees Sixty thousand fifty-three only) has been affixed.”

6. It is the case of the Plaintiff that Defendant No.4 had earlier filed a separate suit for partition in respect of the same suit property, which came to be rejected by this Court on 05.11.2024. It is contended that, in order to avoid multiplicity of proceedings and to secure complete adjudication of the disputes between the parties, the plaintiff seeks to incorporate the consequential reliefs of partition in the present suit.



7. It is further submitted that, owing to the changed circumstances, the plaintiff seeks the consequential relief of possession and, therefore, proposes to amend the pleadings to state that he is in constructive possession of the suit property and seeks separate possession of his 1/5th share in the Suit Property. The plaintiff also seeks a declaration that he is a co-owner of the suit property, being Joint Family Property, and consequential amendments to the title of the suit, valuation clause and court fee.

8. Plaintiff contends that the proposed amendments are *bona fide*, necessary for complete adjudication of the disputes, intended to avoid multiplicity of litigation, and do not alter the nature of the suit nor will prejudice the defendants as the trial has not commenced, and that refusal of the amendments would cause grave injustice to the plaintiff.

9. Reply to the Application has been filed by Defendant No.1, wherein it is stated that the present application is *mala fide*, frivolous and has been filed only to delay the trial, improve the plaintiff's weak case and harass Defendant No.1.

10. It is contended that the present application suffers from unexplained delay. It is stated that the plaintiff was aware of the Gift Deed and the Will even before filing the present suit, yet chose to file only a suit for declaration. It is stated that the relief of partition has now been sought only after dismissal of the connected partition suit and is, therefore, an afterthought.

11. It is further contended that the proposed amendments change the nature and scope of the suit. It is stated that the original suit challenged the Gift Deed and the Will, whereas the amendments seek declaration of co-ownership, partition and possession, which cannot be permitted by way of



amendment.

12. It is further stated that the plaintiff has surreptitiously altered the valuation of the suit property and seeks to cure the deficiency in court fees through the present amendment, which amounts to an abuse of the process of law and therefore deserve to be rejected..

13. Heard the learned Counsels for the parties and perused the material on record.

14. The law relating to amendment of pleadings under Order VI Rule 17 of CPC has been crystallized by the Apex Court in several cases. It is settled law that courts should have a liberal approach in allowing amendment of pleadings, unless the same is barred by limitation. The Apex Court in Life Insurance Corporation of India v. Sanjeev Builders Private Limited, (2022) 16 SCC 1, after analysing several case laws, has summarised the law regarding amendment of pleadings as under:

“71. Our final conclusions may be summed up thus:

71.3. The prayer for amendment is to be allowed:

71.3.1. If the amendment is required for effective and proper adjudication of the controversy between the parties.

71.3.2. To avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment do not seek to withdraw any clear admission made by the party which confers a right



on the other side, and

(c) the amendment does not raise a time-barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

71.4. *A prayer for amendment is generally required to be allowed unless:*

71.4.1. *By the amendment, a time-barred claim is sought to be introduced, in which case the fact that the claim would be time-barred becomes a relevant factor for consideration.*

71.4.2. *The amendment changes the nature of the suit.*

71.4.3. *The prayer for amendment is mala fide, or*

71.4.4. *By the amendment, the other side loses a valid defence.*

71.5. *In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.*

71.6. *Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.*

71.7. *Where the amendment merely sought to introduce an additional or a new approach without introducing a time-barred cause of action, the amendment is liable to be allowed even after expiry of limitation.*



71.8. Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

71.9. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

71.10. Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

71.11. Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi [Vijay Gupta v. Gagninder Kr. Gandhi, 2022 SCC OnLine Del 1897] .)”

15. In addition, the Apex Court in Ganesh Prasad v. Rajeshwar Prasad & Ors, 2023 SCC OnLine SC 256, has held as under:



“33. There cannot be any doubt or dispute that the courts should be liberal in allowing applications for leave to amend pleadings but it is also well settled that the courts must bear in mind the statutory limitations brought about by reason of the Code of Civil Procedure (Amendment) Acts; the proviso appended to Order VI Rule 17 being one of them. In North Eastern Railway Administration, Gorakhpur v. Bhagwan Das reported in (2008) 8 SCC 511, the law has been laid down by this Court in the following terms : (SCC p. 517, para 16).

“16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363] which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. (Also see Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwar [(1990) 1 SCC 166].)”

34. In the case of P.A. Jayalakshmi v. H. Saradha reported in (2009) 14 SCC 525, the above observations were reiterated by this Court and in the light of the same, this Court in para 9 held as under:

“9. By reason of the Code of Civil Procedure



(Amendment) Act, 1976, measures have been taken for early disposal of the suits. In furtherance of the aforementioned parliamentary object, further amendments were carried out in the years 1999 and 2002. With a view to put an end to the practice of filing applications for amendments of pleadings belatedly, a proviso was added to Order 6 Rule 17 which reads as under:

“17. Amendment of pleadings.—The court may at any stage of the proceedings allow either party to alter or amend his pleading in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties : Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.””

35. In *B.K. Narayana Pillai v. Parameswaran Pillai* reported in (2000) 1 SCC 712, this Court referred to the following passage from *A.K. Gupta and Sons Ltd. v. Damodar Valley Corporation* reported in AIR 1967 SC 96 wherein, it was held as follows:—

“4. This Court in A.K. Gupta & Sons Ltd. v. Damodar Valley Corpn. [AIR 1967 SC 96 : (1966) 1 SCR 796] held:

“The general rule, no doubt, is that a party is not allowed by amendment to set up a new case or a new cause of action particularly when a suit on new case or cause of action is barred: Weldon v. Neal [[L.R.] 19 Q.B. 394 : 56 LJ QB 621]. But it is also well recognised that where the amendment does not constitute the addition of a new cause of action or



raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation : See Charan Das v. Amir Khan [AIR 1921 PC 50 : ILR 48 Cal 110] and L.J. Leach and Co. Ltd. v. Jardine Skinner and Co. [AIR 1957 SC 357 : 1957 SCR 438]

The principal reasons that have led to the rule last mentioned are, first, that the object of courts and rules of procedure is to decide the rights of the parties and not to punish them for their mistakes (Cropper v. Smith [[L.R.] 26 Ch. 700 : 53 LJ Ch 891 : 51 LT 729]) and secondly, that a party is strictly not entitled to rely on the statute of limitation when what is sought to be brought in by the amendment can be said in substance to be already in the pleading sought to be amended (Kisandas Rupchand v. Rachappa Vithoba Shilwant [ILR (1909) 33 Bom 644 : 11 Bom LR 1042] approved in Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363 : 1957 SCR 595]).

The expression ‘cause of action’ in the present context does not mean ‘every fact which it is material to be proved to entitle the plaintiff to succeed’ as was said in Cooke v. Gill [[L.R.] 8 C.P. 107 : 42 LJCP 98 : 28 LT 32] in a different context, for if it were so, no material fact could ever be amended or added and, of course, no one would want to change or add an immaterial allegation by amendment. That expression for the present purpose only means, a new claim made on a new basis constituted by new facts. Such a view was taken in Robinson v. Unicos Property Corpn. Ltd. [[1962] 2 All ER 24 (CA)] and it seems to us to be the only possible view to take. Any other view would make the rule futile. The words ‘new case’ have been understood to mean ‘new set of ideas’ : Dornan v. J.W. Ellis and Co. Ltd. [[1962] 1 All ER 303 (CA)] This



also seems to us to be a reasonable view to take. No amendment will be allowed to introduce a new set of ideas to the prejudice of any right acquired by any party by lapse of time.”

Again in Ganga Bai v. Vijay Kumar [(1974) 2 SCC 393] this Court held : (SCC p. 399, para 22)

“The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the court.”

“4. It is clear from the foregoing summary of the main rules of pleadings that provisions for the amendment of pleadings, subject to such terms as to costs and giving of all parties concerned necessary opportunities to meet exact situations resulting from amendments, are intended for promoting the ends of justice and not for defeating them. Even if a party or its counsel is inefficient in setting out its case initially the shortcoming can certainly be removed generally by appropriate steps taken by a party which must no doubt pay costs for the inconvenience or expense caused to the other side from its omissions. The error is not incapable of being rectified so long as remedial steps do not unjustifiably injure rights accrued.”.....”

37. Thus, the Plaintiffs and Defendant are entitled to amend the plaint, written statement or file an additional written statement. It is, however, subject to an exception that by the proposed amendment, an



opposite party should not be subject to injustice and that any admission made in favour of the other party is not but wrong. All amendments of the pleadings should be allowed liberally which are necessary for determination of the real controversies in the suit provided that the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken.

38. Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings.” (emphasis supplied)

16. It is, therefore, settled that amendments which are necessary for determining the real controversy between the parties are ordinarily to be allowed, provided that no irretrievable prejudice is caused to the opposite side. At the stage of deciding an application for amendment, the Court is not expected to conduct a mini trial on the merits of the rival pleas.

17. In the present case, the present application has been filed at a stage when the trial has not yet commenced. The proposed amendments arise out of the same subject matter and the same suit property. The plaintiff seeks to add the consequential reliefs of declaration of co-ownership, partition and possession on the basis of the pleadings already on record.

18. Accordingly, this Court is of the view that allowing the amendments would enable the Court to decide all the disputes between the parties in one proceeding and would avoid multiplicity of litigation. The objections raised by Defendant No.1 regarding the merits of the plaintiff claim are matters to be considered at the stage of trial and do not constitute a ground to refuse the amendment at this stage.



19. In the opinion of this Court, the proposed amendments do not introduce a new or inconsistent cause of action but are consequential to the existing pleadings. Any prejudice likely to be caused to the defendants can be compensated by granting them liberty to file an amended written statement(s).

20. Accordingly, the present Application is allowed.

21. The Defendants are at liberty to file Written Statement(s) to the amended portion of the Plaint within the time prescribed under the Delhi High Court (Original Side) Rules, 2018.

22. Since the plaintiff has enhanced the valuation of the suit and has sought additional reliefs, the plaintiff is directed to file the requisite amended valuation and pay the appropriate additional court fee, if any, within four weeks. Upon the same being filed, the amended plaint be taken on record.

23. The Application is disposed of.

I.A. 15199/2026

24. This Application under Order XI Rules 12 & 14 CPC has been filed on behalf of the Plaintiff for production of certain documents.

25. Plaintiff, who appears in person, seeks permission to withdraw the present Application with liberty to raise the grounds which have been raised in the present Application at a later point of time.

26. Leave and liberty, as prayed for, is granted.

27. The Application is disposed of as withdrawn.

I.A. 7587/2025

28. This Application under Order XIII Rule 8 CPC has been filed on behalf of the Plaintiff for impounding the Gift Deed dated 06.09.2021 on the



ground that the same is under-valued.

29. Plaintiff, who appears in person, seeks some time to file additional documents to show that the Gift Deed is under-valued and, therefore, is liable to be impounded under Section 33 of the Indian Stamp Act, 1899.

30. List on 23.11.2026.

I.A. 20053/2026

31. List on 23.11.2026.

SUBRAMONIUM PRASAD, J

JULY 30, 2026

Rahul