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

+ **CS(OS) 365/2019**

MAHAVIR PRASAD MUDGAL & ANR.Plaintiffs

Through: Mr. Amit Sood, Mr. Chandan Dutta
and Mr. Aditya Jagia, Advocates.

versus

DHARMENDRA KUMAR MUDGAL & ANR.Defendants

Through: Mr. Amit Kumar, Advocate for
Defendant/Mr. Amit Mudgal.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

08.04.2025

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I.A. 1453/2024

1. This is an application under Order VI Rule 17 read with Section 151 CPC filed by the Plaintiffs seeking amendment of the plaint.
2. It is stated in the application that Plaintiffs being joint lawful owners of immovable property bearing No. B -4A/30, Rana Pratap Bagh, Delhi, comprising of freehold plot of land admeasuring 218.98 sq. yards and a superstructure with ground, first and second floors and servant rooms on the terrace, filed the present suit seeking *inter alia* eviction, possession, permanent and mandatory injunction, mesne profits, damages etc., against Shri Dharmendra Kumar Mudgal, originally arrayed as Defendant No. 1 and Shri Amit Mudgal, original Defendant No. 2, as they were unauthorisedly occupying the property. Parties being closely related were embroiled in several litigations and one such litigation was referred for arbitration and



during the pendency of the arbitration proceedings, oral settlement was reached between the Plaintiffs and Shri Dharmendra Mudgal, pursuant to which, he has vacated the portion of the suit property occupied by him and his family members. On an application filed under XXIII Rule 1 CPC, 1908 being I.A. No. 11706/2023, this Court recorded the settlement and deleted Defendant No. 1 from the array of parties vide order dated 03.07.2023. Amended memo of parties has been filed by the Plaintiffs.

3. It is averred in the application that in light of this development, Plaintiffs seek to amend cause title and the heading of the suit as also amend other paragraphs. Paragraph-7 is sought to be deleted and consequent re-numbering in other paragraphs is also sought. Learned counsel urges that the amendment is formal and necessitated due to a development during the pendency of the suit on account of settlement with original Defendant No. 1.

4. Counsel for original Defendant No. 2 opposes the application on the ground that by this application, Plaintiffs seek to bring about a material change in the nature and complexion of the original suit and illustratively points out that in the original plaint, it was never the case of the Plaintiffs that they were registered joint lawful owners of the suit property.

5. Having heard the counsels for the parties and on perusal of the amendments sought, this Court is of the view that the amendments sought are only formal. In the arbitration proceedings between the parties, relating to a dispute with respect to partnership business under the name and style of Unisteel Corporation. Plaintiff No. 1 along with other parties settled the matter with Shri Dharmendra Kumar Mudgal, original Defendant No. 1 in the present suit and by permission of the Court, he has been deleted from the array of parties. In this light, Plaintiffs seek to amend the plaint to delete all



averments pertaining to original Defendant No. 1 as no relief is now claimed against him as the said Defendant has vacated the suit property. Some paragraphs are sought to be deleted due to this development and the remaining are to be re-numbered as a consequence thereto. Counsel for original Defendant No. 2 is not correct in his submission that the nature or complexion of the suit is being changed. Plaintiffs have clearly stated in the original plaint that they are registered joint lawful owners of the suit property *albeit* in paragraph-1 and conjoint reading of plaint and amendment application shows that Plaintiffs are only seeking to reverse the averments between paragraphs-1 and 2 and there are no additions to the averments, save and except, to incorporate the settlement with original Defendant No. 1.

6. For all the aforesaid reasons, the application is allowed and disposed of and amended plaint filed along with the application is taken on record

CS(OS) 365/2019 and I.A. 9929-9930/2019 and 11107/2020

7. Amended memo of parties is taken on record.

8. Amended written statement be filed by the Defendants within 30 days from today. It will be open to the Plaintiffs to file replication to the amended written statement within 30 days from the date of receipt of the amended written statement.

9. List for further proceedings before the Joint Registrar on 18.07.2025.

JYOTI SINGH, J

APRIL 8, 2025

B.S. Rohella