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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 518/2023 & I.A. 17014/2023, I.A. 23258/2023, I.A. 23545/2023, I.A. 2882/2024

MRS RAGINI JAIN

.....Plaintiff

Through: Ms. Gunjan Sinha Jain and Mr. Manu Bajaj, Advocates

versus

MR RAJEEV JAIN & ORS.

.....Defendants

Through: Mr Suneel Kumar Atreya, Mr Sanjay Kalra and Mr Rajeev Jain, Advocates for D-1 & D-3
Mr. Anshul Syal and Ms. Bhavana Duhoon, Advocates for D-2

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **07.08.2024**

I.A. No. 23545/2023 (application under Order VI Rule 17 CPC by plaintiff)

1. This is an application filed on behalf of the plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking amendment limited to paragraph '38' of the original plaint.
2. It is stated that the suit has been filed for declaration seeking a declaration that the purported Will dated 19.05.2016 propounded by defendant no. 1 is not binding upon the plaintiff and she is the absolute owner of the property situated at A-33, Aditi Apartments, 16-A, I.P. Extension, Patparganj, East Delhi-110092 ('suit property'). The plaintiff further also seeks injunction to restrain the defendant no. 1 from alienating



or creating a third-party interest in the suit property and parting with the other assets of Late Sh. Satish Chandra Jain on the basis of the Purported Will dated 19.05.2016.

3. It is stated that with respect to the reliefs sought in the plaint with regards to declaration and injunction, the plaintiff has valued the same at Rs. 2,01,00,000/- and paid ad-valorem court fees of Rs. 1,98,600/- with the plaint. It is stated, however, in the pleading at paragraph '38', there was an inadvertent error while declaring the valuation as Rs. 2,00,00,000/-. It is stated that it is with respect to this error, the present application has been filed to correct the same by amending paragraph '38' of the plaint.

4. In reply, learned counsel for the defendant nos. 1 and 3 states that the present application cannot be allowed. He states that the said defendants herein has filed I.A. No. 23258/2023 seeking dismissal of the suit for lack of pecuniary jurisdiction. He states that since the District Courts alone have jurisdiction to entertain suits up to the value of Rs. 2,00,00,000/-, the present suit in view of the averments made at paragraph '38' ought to have been filed in the District Court.

5. He states that the High Court does not have the pecuniary jurisdiction to entertain and try this suit. He relies upon the judgement of a Coordinate Bench of this Court in **Saiyid Sirajul Hasan vs. Syed Murtaza Ali Khan, through legal heirs**¹

6. This Court has considered the submissions of the parties and perused the pleadings.

¹ 2022 SCC Online Del 3346 [paras 23, 29, 30 ,34, 39 and 40]



7. In the plaint, separate from paragraph '38', the plaintiff has pleaded her contentions with respect to territorial and pecuniary jurisdiction of this Court at paragraph '39' of the plaint. In this para, the plaintiff has pleaded that the valuation of the estate of the testator i.e., late Mr. Satish Chandra Jain is above Rs. 2,00,00,000/-. The relevant paragraph '39' reads as under:-

"39. This Hon'ble Court has the territorial jurisdiction to entertain the present suit as the Defendant No. 1 is permanently residing in Delhi i.e. within the territorial jurisdiction of this Hon'ble Court. The collective valuation of the estate of the Testator is above Rs. 2 Crores and therefore, falls within the pecuniary jurisdiction of this Hon'ble Court."

(‘Emphasis Supplied’)

8. In the opinion of this Court considering the averments of the plaintiff at paragraph '39' of the plaint and the submission of the plaintiff in the application that the court fee of Rs. 1,98,600/- was applied to the plaint on the value of Rs. 2,01,00,000/-, this Court is satisfied that the pleading at paragraph '38' in the original plaint was an inadvertent error. Therefore, the prayer sought by the plaintiff in this application seeking to amend paragraph '38' of the plaint to plead the corrected value of Rs. 2,01,00,000/- is meritorious and accordingly allowed.

9. The reliance placed by the defendant on the judgment of **Saiyid Sirajul Hasan** (supra) is not attracted in the facts of this case since the plaintiff by way of the amendment is not seeking to enhance the pecuniary value of the claims but is seeking an amendment, which is in conformity with the existing pleadings. Moreover, this Court is satisfied that the twin conditions set out in the said judgment are satisfied as no injustice is being caused to the defendant nos. 1 and 3 and the plaintiff though this application



only seeks to bring consistency in the averments made at paragraphs 38 and 39 of the plaint.

10. The amended plaint is accordingly taken on record.

11. Keeping in view the clerical nature of the amendment allowed no direction is being issued to the defendants to file an additional pleading to the amended paragraph '38' of the plaint.

I.A. No. 23258/2023 (application under Section 21(2) of CPC by defendant nos. 1 and 3)

12. This is an application filed by the defendant nos. 1 and 3 under Section 21(2) read with 151 of CPC for dismissing the suit for lack of pecuniary jurisdiction.

13. In view of the orders passed in I.A. No. 23545/2023 earlier today, the relief sought in the present application does not survive for consideration.

14. Accordingly, the present application is dismissed.

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15. The pleadings are complete in the suit.

16. The plaintiff is directed to file the Joint Document Schedule within a period of four weeks. The parties are directed to carry out admission/denial of documents on hard copies before the learned Joint Registrar (J) on 21.10.2024.

17. List on 16.01.2025 for arguments on pending applications and framing of issues.

MANMEET PRITAM SINGH ARORA, J

AUGUST 7, 2024/rhc/ms