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

+ **CS(OS) 447/2019**

NIJI SAPRA

..... Plaintiff

Through: Mr. C.M. Lal, Senior Advocate with
counsel (appearance not given).

versus

DELHI GYMKHANA CLUB LTD. & ORS. Defendants

Through: Mr. Prateek Kumar and Ms. Apeksha
D., Advocates for D-1.

Mr. Gaurav M. Liberhan, Mr. Arun
Singh Rawat, Mr. Arsh and Mr.
Angad Mehta, Advocates for D-3
and 6.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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16.04.2024

I.A. 23335/2023

By way of the present application filed under section 151 of the Code of Civil Procedure 1908 ('CPC'), the applicant/plaintiff seeks leave to sign the verification clause of the amended plaint, to remedy that omission and cure that technical defect.

2. Mr. C.M. Lal, learned senior counsel appearing for the plaintiff submits, that *vide* order dated 19.11.2019 made on I.A. No. 13362/2019 under Order VI Rule 17 CPC, the plaintiff was allowed to amend the plaint, since the suit was at its initial stage and no summons had been issued thereon. Learned senior counsel submits that alongwith I.A. No.13362/2019, the plaintiff had appended a copy of the amended plaint; and *vide* order dated 19.11.2019, the court



directed the amended plaint to be taken on record and for it to be registered as a suit.

3. It is pointed-out, that as recorded in that order, summons were issued in the suit; and learned counsel appearing for defendant No.1/Delhi Gymkhana Club Ltd., who was present, accepted summons in the matter; and sought time to file their written statement.
4. Mr. Lal further points-out, that it was subsequently noticed that by inadvertent omission, the plaintiff had not signed at the foot of the amended plaint and at the foot of the verification clause. By reason thereof, the plaintiff sought permission of the court to rectify this defect, which was granted *vide* order dated 26.07.2023. In fact, it is pointed-out, that order dated 26.07.2023 recorded as follows :

“6. The learned counsel for plaintiff seeks to amend the verification clause of plaint. Let the needful be done before next date of hearing.”

(emphasis supplied)

5. However, it is submitted that in fact the plaintiff does not wish to *amend* anything in the verification clause of the amended plaint, but only wishes to *sign* it, which the Registry is not permitting, since the Registry is insisting that an order to that effect be obtained from court. It is in this background that the present application has come to be filed.
6. Mr. Lal submits, that to the best of their understanding, a physical copy of the amended plaint was filed; however if that is not the case, the plaintiff be permitted to file a duly signed, physical copy of the amended plaint, without making any other change therein whatsoever.



7. Upon being queried, Mr. Lal, on instructions of the plaintiff, who is also present in court, re-confirms that the plaintiff does not wish to amend the verification clause and only wishes to append her signatures at the foot of the amended plaint and at the foot of the verification clause.
8. Issue notice.
9. Learned counsel, as above, are present on behalf of the defendants; and accept notice.
10. Mr. Prateek Kumar, learned counsel appearing for defendant No.1 club and Mr. Gaurav Liberhan, learned counsel appearing for defendants Nos.3 and 6 submit, that non-signing of the plaint is an *incurable defect*. They also point-out, that the verification clause as drawn-up is defective inasmuch as the plaintiff does not state as to which paragraphs of the amended plaint are true to her knowledge, and which are true upon legal advice received. They submit that the plaintiff has also been negligent in not availing the opportunity granted *vide* order dated 26.07.2023 for *amending* the verification clause.
11. Mr. Lal responds by saying, that the omission to sign the amended plaint occurred since a copy of the *proposed amended plaint* had been appended to I.A. No. 13362/2019; and the opportunity for filing a signed, amended plaint would only have been granted after the amendment was allowed. Learned senior counsel argues however, that the way the matter proceeded, *vide* order dated 19.11.2019, the court not only allowed the amendments, but also took on record the amended plaint; directing that the plaint be registered as a suit; and



issued summons thereon, which were accepted by counsel who was present on behalf of defendant No.1 club.

12. Mr. Lal submits, that no sooner did the plaintiff realise the inadvertent error, she made a request to the court for rectifying the error, which was allowed *vide* order dated 26.07.2023. However, it is submitted that thereafter, as recorded in order dated 09.01.2024 by the learned Joint Registrar, the defendants opposed the present application, submitting that there is no provision for the verification clause of the plaint being signed by the plaintiff, as prayed-for.
13. Upon a conspectus of the foregoing, in the opinion of this court, the omission to sign the amended plaint was neither intentional nor deliberate; nor should the defendants be permitted to take advantage of such hyper-technicality. The run of events, as seen from the record, show that the proposed amended plaint filed alongwith the application came to be taken on record there-and-then *vide* order dated 19.11.2019; and that thereafter the plaintiff has *not* sought to amend any portion of the amended plaint.
14. In the circumstances, the application is allowed; and the plaintiff is permitted to sign the plaint as well as the verification clause at the foot, without making any other amendment to any part or portion of the amended plaint.
15. Let the needful be done in the presence of Registrar (Original), within 02 weeks.
16. It is further directed that in case the amended plaint was only filed electronically, the plaintiff is permitted to file a duly signed, physical



copy of the amended plaint, without making any other change therein, which would then be also filed electronically.

17. Let a copy of the signed, amended plaint be also furnished to learned counsel for the defendants.
18. Application stands disposed-of in the above terms.

CS(OS) 447/2019, I.A. 11940/2019, I.A. 13288/2019, I.A. 13412/2019, I.A. 1184/2020, I.A. 2048/2020, I.A. 15096/2022, I.A. 15152/2022 & I.A.292/2023

19. Re-notify on 08th August 2024.

ANUP JAIRAM BHAMBHANI, J

APRIL 16, 2024/ak