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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 699/2022 & I.A. 18587/2022, I.A. 6280/2023, I.A.
23866/2023
DR. KAVITA RUPRAILPlaintiff

Through: Mr. Tanmaya Mehta, Mr. Divyansh
Rathi, Ms. Sumedha Sindhu and Mr.
Ankit Kumar, Advocates.

versus

KUNAL KWATRA & ORS.Defendants
Through: Mr. P. K. Rawal, Adv. for D-1

Mr. Tarun Agarwal, Advocate for D-3

Mr. Ankush Satija, Mr. Ankur
Mahindro, Mr. Rohit Bishnoi, Advs.
for D-5 to 7

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **30.09.2024**

I.A. 23866/2023(on behalf of defendant no. 5 to 7 under order VII Rule 9 of the CPC)

1. This is an application filed by defendant nos. 5 to 7 under Order VIII Rule 9 of the Code of Civil Procedure, 1908 ('CPC') seeking relief to respond to the stand taken by defendant nos. 1-3 in their written statement.
2. Learned counsel for the applicants/defendant nos. 5 to 7 states that this is a suit for recovery of possession and damages and defendant nos. 1-3 have filed a written statement and along with the same has produced photocopy of an alleged document dated 01.04.2021 purported to have been signed by late Mr. Sandeep Kumar i.e., the predecessor of defendant nos. 5 to 7 herein.



2.1. He states that applicants dispute the existence and genuineness of the said purported document dated 01.04.2021 as well as the contents of the said document. He states that defendant nos. 5 to 7 are in possession of sufficient independent public record which would evidence those contents of the purported document dated 01.04.2021 are false.

2.2. He states that applicants seek limited liberty to file an additional pleading to respond to the allegations made by defendant nos. 1-3 in their written statement. He undertakes in this additional pleading that the applicants will not deal with any of the contentions raised in the plaint since the written statement of defendant nos. 5 to 7 to the plaint already stands filed.

3. In reply, non-applicant/plaintiff states that he has no objection to the limited liberty sought by the applicant/defendant nos. 5 to 7 in the captioned application, however, the applicants cannot be permitted to respond to any plea made in the plaint.

4. In reply, learned counsel for the defendant no. 1 states that the application has been filed under Order VIII Rule 9 of the CPC and the relief sought therein, is incorrect and inapplicable. He states that the remedy, if any, available to the applicants/defendant nos. 5 to 7 to raise the aforesaid additional pleas is by way of amending their written statement.

4.1. He, however, concedes that defendant no. 1 is relying upon the document dated 01.04.2021 executed by late Mr. Sandeep Kumar in the present suit both against the plaintiff and against defendant nos. 5 to 7.

4.2. He states that it has been disclosed in the written statement that the defendant no. 1 does not have the custody of the original of the document dated 01.04.2021 and the custody of the said document was with late Mr.



Sandeep Kumar.

5. In the considered opinion of this Court, the limited liberty sought by the applicants/defendant nos. 5 to 7 is liable to be allowed considering the fact that this is a suit for recovery of possession and damages. Since the photocopy of the document dated 01.04.2021 relied upon by defendant no. 1 to oppose the reliefs of the plaintiff has to be verified and considered by this Court and the said document is stated to have been executed by late Mr. Sandeep Kumar, therefore, the response of defendant nos. 5 to 7 who are the successors in the interest of late Mr. Sandeep Kumar would be relevant and ought to be brought on record.

6. The counsel for the defendant nos. 1-4 does not oppose or dispute the right of the applicants to place their stand on record qua the document dated 01.04.2021. The essence of the contention of learned counsel for defendant nos. 1-4 is that the appropriate provision is Order VI Rule 17 CPC and not Order VIII Rule 9 CPC. The counsel has contended that Order VIII Rule 9 CPC takes within its ambit only a replication by the plaintiff.

7. This Court is unable to accept the submissions of defendant nos. 1-4 since Order VIII Rule 9 CPC contemplates the Court may at any time issue directions to a party to file additional written statement. In the facts of this case, the applicants/defendant nos. 5-7 are seeking leave to file an additional pleading to respond to the averments of defendant nos. 1-4, which is in effect leave to file an additional written statement. The relevant provision read as under:

“9. Subsequent pleadings.— No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any



time require a written statement or additional written statement from any of the parties cut and fix a time of not more than thirty days for presenting the same.”

(‘Emphasis Supplied’)

The contention of the counsel for defendant nos. 1-4 that Order VIII Rule 9 of CPC only contemplates the filing of replication by the plaintiff is, therefore, incorrect. In the facts of this case, this Court is satisfied that applicants ought to file an additional written statement to bring their stand on record. The jurisdiction of the Court in permitting the filing of additional pleadings is well settled and is not disputed by the counsel for defendant no. 1, thus, the objection to the prayers is without any merit.

8. The applicants are not seeking to amend their stand in the written statement to the plaint, which the applicants could have only done by filing an application under Order VI Rule 17 CPC. Since the applicants are not seeking to amend their stand to the plaint, the applicants have rightly not invoked the said provision.

9. It is, however, made clear that the additional pleading (additional written statement) of the applicants will be limited in its response to the stand taken by defendant nos. 1-3 in their written statement as well as to the document dated 01.04.2021 and no response will be made to the contents of the plaint.

10. With the aforesaid direction, application is allowed.

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11. List before the learned Joint Registrar (J) on 14.11.2024.

12. List before Court on 17.12.2024, the date already fixed.

13. Learned counsel for the plaintiff states that steps for serving the newly



impleaded defendant no. 2 (a) shall be taken within a period of one (1) week from today. He also states that he will file his additional affidavits within a period of two (2) weeks from today.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 30, 2024/mt/ms

Click here to check corrigendum, if any