



\$~11

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

+ **CS(OS) 693/2023 & I.As. 21543/2023**

PRADEEP KUMAR TYAGI Plaintiff

Through: Dr. Suman Chaudhary, Advocate.

versus

PRAMOD KUMAR TYAGI Defendant

Through: Mr. Baldev Raj & Ms. Shikha
Tyagi, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **21.05.2024**

I.A. 4491/2024(Application on behalf of the plaintiff for the amendment of the plaint)

1. The plaintiff has filed this application under Order VI Rule 17 of the Code of Civil Procedure, 1908, for amendment of the plaint.
2. The plaintiff and defendant are brothers. In the suit, the plaintiff seeks partition of two immovable properties stated to have originally owned by the father of the parties.
3. The amendment sought is to incorporate a challenge to a relinquishment deed dated 22.07.1983, which has been pleaded in the written statement, and placed on record by the defendant. According to the defendant, the plaintiff and the mother of the parties executed the said relinquishment deed in respect of the suit properties, in favour of the



defendant. According to the plaintiff, however, he had not executed any relinquishment deed in favour of the defendant and had no knowledge of the defendant's reliance on the purported relinquishment deed, until filing of the written statement. He therefore seeks to challenge the relinquishment deed by way of incorporating pleadings in the suit and addition of a prayer to this effect.

4. Mr. Baldev Raj, learned counsel for the defendant, submits that the proposed amendment changes the nature and character of the suit. I am not inclined to accept this submission. The suit is for partition, and the challenge to the relinquishment deed is also in aid of the same relief. The plaintiff's case with regard to the invalidity of the document, would of course have to be examined at the appropriate juncture.

5. The suit is still at a pre-trial stage with only the written statement having been filed so far. Applications for amendment are generally considered liberally at this stage of proceedings, with the objective of avoiding multiplicity of litigation and deciding the issues between the parties comprehensively.

6. I am of the view that the amendment sought by the plaintiff is justified on these considerations.

7. The application is therefore allowed and stands disposed of.

CS(OS) 693/2023

1. Amended plaint, incorporating the amendments in the application, be filed within one week. Dr. Suman Chaudhary, learned counsel for the plaintiff, states that no further documents are required to be filed.

2. The defendant is at liberty to file a written statement to the amended plaint within 30 days after service of the amended plaint. The



defendant may also file any additional documents upon which he wishes to rely, within the same time.

3. The plaintiff will be at liberty to file a replication to the amended written statement within 30 days thereafter, alongwith an affidavit of admission/denial of all the documents filed by the defendant.

4. List the suit before the learned Joint Registrar on 08.08.2024, for completion of pleadings, admission/denial of documents and marking of exhibits.

5. List before the Court on 23.10.2024.

PRATEEK JALAN, J

MAY 21, 2024

'pv' /