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

+ **CS(OS) 635/2019**

ARUN KUMAR JAIN

.....Plaintiff

Through: Mr.Rajat Aneja, Ms.Alka
Dwivedi, Advs.

versus

PADAM CHAND JAIN & ORS

.....Defendants

Through: Mr.Naresh Gupta, Adv. for D-
1.

Mr.Shubhankar Sengupta,
Mr.Aarush Bhatia, Mr.Amit
Dogra, Advs. for D-2 to 5,
7,8A,9,10A to 10C & 11.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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12.08.2024

I.A. 842/2021

1. This application has been filed by the defendant no.1 under Order VIII Rule 9 of the Civil Procedure Code, 1908, seeking leave to file additional written statement/subsequent pleadings to the written statement filed by the defendant nos.2 to 5 alongwith documents in support thereof.

2. The present Suit has been filed by plaintiff seeking partition of the properties left behind by late Sh.Kundal Lal Jain. The defendant no.1, contends in the present application that the defendant no.1 had filed written statement to the present Suit, however, later on, defendant nos.2 to 5 also filed their written statement to the present



Suit wherein certain pleadings have been made which are contrary to the stand taken by their predecessor-in-interest in an earlier litigation between the parties. The learned counsel for defendant no.1 submits that through this application, the defendant no.1 merely wishes to place on record those earlier pleadings of the predecessor-in-interest of defendant nos.2 to 5 in this regard.

3. The learned counsel for the plaintiff and learned counsel for the defendant nos.2 to 5 submit that the defendant no.1 cannot be allowed to place on record the additional pleadings, after having already filed the written statement.

4. I have heard the submissions made by the learned counsels for the parties.

5. As has been explained by the learned counsel for the defendant no.1, the necessity of filing of the additional pleadings has arisen only because of the stand taken by the defendant nos.2 to 5 in their written statement. The defendant no.1 merely wishes to bring on record the stand taken by the predecessor-in-interest of the defendant nos.2 to 5 in the earlier pleadings.

6. The present is a Suit for partition, therefore, to have a complete and fair adjudication of the disputes raised, in my opinion, permission ought to be granted to the defendant no.1 to file further pleadings in answer to the stand taken by the defendant nos.2 to 5. The Court has to ensure that the procedures do not, in any manner, prejudice a party from laying his/her defence to the Suit. Reliance in this regard is placed on the Judgment of the Supreme Court in ***Sardar Amarjit Singh Kalra (Dead) by Lrs. & Ors. v. Pramod Gupta & Ors.***, (2003)



3 SCC 272, wherein the Supreme Court held as under:

“26. Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.....”

7. The application is accordingly allowed.

I.A. 10762/2024

8. The learned counsels for the plaintiff and the defendant nos.2 to 5 pray for and are granted four weeks' further time to file the reply(s). Rejoinder(s) thereto, if any, be filed within a period of two weeks thereafter.

9. List on 25th October, 2024.

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10. Additional written statement is taken on record.

11. Replication to the additional written statement of defendant no.1, if any, may be filed by the plaintiff and the defendant nos.2 to 5 within a period of four weeks from today.

12. List on 25th October, 2024.

NAVIN CHAWLA, J

AUGUST 12, 2024/Arya/VS

[Click here to check corrigendum, if any](#)