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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1471/2012**
VINITA SHARMA & ORS

..... Plaintiff

Through: Ms. Mrinalini Sen, Advocate for
Plaintiff No.1.

versus

SANJAY SHARMA & ORS

..... Defendant

Through: Ms. Surekha Raman, Advocate for D-
5 & D-6.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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11.03.2024

I.A. 5266/2016 (under Order 6 Rule 17 read with Section 161 CPC on behalf of plaintiff for Amendment of Complaint)

1. An application has been filed on behalf of the plaintiff for amendment of the plaint.
2. It is submitted in the application that the suit for Partition was initially filed in respect of the properties bearing No.135 and 110A, Hari Nagar, Ashram, New Delhi. In an application under Order 1 Rule 10 CPC filed on behalf of defendant No.1 to 4 Shri Balram Sharma and Mrs. Anita Sharma were impleaded as defendant No.5 and 6. In their Written Statement defendant No.5 and 6 have claimed that there is no Oral partition in respect of the suit property.
3. New facts have emerged from their Written Statement as they have denied the oral partition between Shri Niader Singh, grandfather of the plaintiffs and defendant No.1 to 3 and father-in-law of defendant No.4 and



father of defendant No.5 to 6. It has, therefore, become imperative to amend the plaint and to add that plaintiff is also a co-owner in respect of property bearing No.109, Hari Nagar, Ashram, New Delhi and wants to make the corresponding amendment in paragraph No.1 of the plaint.

4. Learned counsel on behalf of defendant No.5 and 6 has relied upon a Compromise Deed dated 20.10.1992 filed in the Court in an injunction suit, wherein the defendant No.6 and the plaintiffs agreed to be in possession of their respective portions, as reflected in the site plan.

5. Learned counsel on behalf of defendant No.5 and 6 has contended that this document establishes the exclusive ownership of defendant No.5 and 6 and the amendment is not warranted.

6. Submissions heard.

7. This settlement is essentially in respect of possession and not title. Also, these disputed questions about title cannot be considered at the stage of amendment; the application under Order VI Rule 17 CPC is allowed.

8. The defendants are at liberty to raise their challenge and contentions in respect of the subject property in their written statement.

The amended plaint be filed within fifteen days and the Written Statement for the amended plaint, if any, be filed within fifteen days thereafter.

9. The application is accordingly allowed.

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10. List before learned Joint Registrar for completion of pleadings on 08.05.2024.

NEENA BANSAL KRISHNA, J

MARCH 11, 2024/va