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

+ **FAO(OS) 541/2015**

DEEPA SINGH

..... Appellant

Through : Mr Sarat Kapoor with Mr C. B. Tiwari and
Ms Nitu Singh

versus

SHARDA JOOTLA & ORS

..... Respondents

Through : None

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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28.09.2015

CM 20993/2015

The delay in re-filing is condoned.

This application stands disposed of.

CM 20994/2015

Allowed subject to all just exceptions.

FAO(OS) 541/2015 & CM 20992/2015

This is an appeal from an order dated 21.05.2015 passed by a learned Single Judge of this Court in IA 14304/2014 which was an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 seeking amendment of the plaint by the appellant/plaintiff. The suit was filed by the appellant seeking a decree of partition/ rendition of accounts in respect of certain properties which was detailed in the Schedule to the plaint. The suit was filed way back in 1996. The amendment application was filed 18 years later in 2014 and the amendment that was sought to be introduced, was the inclusion of the so-called details of the Calcutta property in the Schedule to the plaint.

The learned Single Judge, by virtue of the impugned order, has rejected the said application on several grounds. One of the grounds was inordinate delay of 18 years in

moving that application. The learned Single Judge also noted that the so-called inadvertent error in not including the details of the Calcutta property in the Schedule to the plaint did not appear to be *bona fide*. This conclusion, which the learned Single Judge drew, was based, *inter alia*, on the averments contained in paragraph 5 of the plaint as also paragraph 5 of the written statement of the defendant No. 1.

The said defendant No. 1 in paragraph 5 of the said written statement had categorically stated that “the flat situated at Calcutta does not form part of the subject matter in the present suit and thus, cannot be taken into consideration”. The said written statement was filed way back on 13.12.2002. The replication, which was filed to the said written statement, did not contradict this statement apart from a bare denial. What is important is that although the stand of the defendant No.1 was clear that the suit did not include the Calcutta property, no steps were taken by the appellant/plaintiff for 12 years thereafter to move an application for amendment such as the one which was moved in 2014.

There are other reasons also because of which the learned Single Judge has rejected the application for amendment. We concur with the conclusions and the reasoning adopted by the learned Single Judge.

There is no merit in this appeal. The same is dismissed.

BADAR DURREZ AHMED, J

**SEPTEMBER 28, 2015
SR**

SANJEEV SACHDEVA, J