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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 254/2015 & C.M. No.5326/2015
MOHD YAHYA

..... Petitioner

Through Mr. Kunal Kalra, Adv.

versus

MATLOOB AHMAD

..... Respondent

Through Mohd. Sajid, Adv.

+ CM(M) 262/2015 & C.M. No.5477/2015
MOHD YAHYA

..... Petitioner

Through Mr. Kunal Kalra, Adv.

versus

SUNIL

..... Respondent

Through Mr. Shiv Sehgal, Adv.

+ CM(M) 266/2015 & C.M. No.5494/2015
MOHD YAHYA

..... Petitioner

Through Mr. Kunal Kalra, Adv.

versus

MOHD ISMAIL

..... Respondent

Through Mr. Sunil Kumar, Adv.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **08.02.2016**

The petitioner is aggrieved by the impugned order dated 22.12.2015 vide which his application seeking amendment of his petition (under Order 6 Rule 17 of the CPC) had been declined.

There are three petitions which are pending before the Trial Court. Each one of them has been filed under Section 14 (1)(e) of the DRCA. Admittedly leave to defend had been granted to the respondents. They were contesting the petitions. Written statement had been filed. On an earlier date i.e. on 26.10.2013, learned counsel for the petitioner had made a statement before the Trial Court that he wishes to withdraw the petitions; it appeared to the learned counsel for the petitioner that the petitions have not been filed properly and some ambiguity had been noted by him. On the next date i.e. on 31.01.2013, the petitioner had changed his counsel and the new counsel has filed his vakalatnama. Learned counsel for the petitioner submits that when the written statement was filed by the respondents, the newly engaged counsel noted the defects which were largely ambiguities in the petitions and accordingly on the very next day, he moved an application seeking amendment.

The original petitions and the amendments now sought for have been perused. In the original petitions, the petitioner had submitted that the subject matter of the premises is required bonafide for the petitioner and his six sons. The names of six sons have been enumerated; in the following paragraphs, the particulars of the sons for whom the premises was required has been mentioned. The first petition had been filed for the bonafide requirement of Mohd. Zahind. The second petition had been filed for the bonafide requirement of

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Mohd. Shahid and Mohd. Zakir. The third petition had been filed for the bonafide requirement of Mohd. Amir and Mohd. Sameer.

The Trial Court had not examined the petitions in the correct perspective. The Trial Court has recorded a finding that the amendments sought for amounted to filling up a lacuna and had thus dismissed the applications.

This Court is not in agreement with the orders passed by the Trial Court. The nature of the petitions has not changed; it still remains the same petition seeking bonafide a requirement for the sons of the petitioner; even in the unamended petition, the details of the six sons had been given which was followed by the bonafide requirement of each son in each petition. The applications were also filed at the initial stage i.e. prior to issues having been framed.

The impugned order is accordingly set aside. The amendments as prayed for by the petitioner are allowed in each of the petition subject to cost of Rs.3,000/- in each one of them to be paid to the learned counsel for the respondents.

Petitions disposed of.

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INDERMEET KAUR, J

FEBRUARY 08, 2016

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