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

+ C.R.P. 141/2016

K N SRIVASTAVA & ANR Petitioners
Through Mr.Khushir Singh, Advocate with
Mr.K.N.Srivastava, petitioner-in-person.

versus

D P SINGH Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **06.09.2016**

CM No.32587/2016 (exemption)

Exemption is allowed subject to all just exceptions.

C.R.P. No. 141/2016 and CM Nos.32588/2016(stay) & 32589/2016 (delay)

1. By the present petition, the petitioners seek to impugn the order dated 06.01.2016 by which the application filed by the respondent to amend the plaint was allowed.
2. The plaintiff/respondent has filed the suit for mandatory and permanent injunction and for rendition of accounts. It is the contention of the plaintiff/respondent that the builder-M/s. Experts Builder Pvt. Ltd. entered into an agreement for construction with the defendants/petitioners regarding the plot in Rajouri Garden. By the present suit the plaintiff claims

a decree for Rs.3 lacs, a decree of mandatory injunction thereby directing the defendants to remove their locks from the terrace floor and a decree of permanent injunction to restrain defendants No. 5 and 6 not to pay any amount of rent of antennas to the petitioners. The petitioners/defendant No.1 filed their written statement. One of the grounds taken in the written statement is that the respondent has no locus standi to initiate the present suit as there is no relationship between the respondent and the petitioners inasmuch as the petitioners have not entered into any contractual/commercial agreement or other relationship with the respondent.

3. It is in the above facts that the respondent filed the present application under Order 6 Rule 17 CPC where an amendment was sought to be introduced claiming that the respondent was the Managing Direction of M/s. Experts Builder Pvt. Ltd. and that the company was lying defunct and the Directors of the Company decided to apply to Registrar of Companies to declare the company as defunct under Section 560 of the Companies Act. Essentially what the respondent seeks to do by the present amendment is to give an explanation as to why the suit has been filed in the individual capacity and not on behalf of the company-M/s. Experts Builder Pvt. Ltd. which as per the petitioners was the organisation with whom the petitioners had entered into an agreement.

4. The trial court by the impugned order has allowed the amendment stating that these are subsequent events which can be taken note of to curtail multiplicity of legal proceedings.

5. I have heard the learned counsel for the petitioners. The basic contention of the petitioners is that the proposed amendment would prejudice the petitioners inasmuch as it is always being the stand of the

petitioners that the suit is bad for non-joinder and by the proposed amendment, the respondent seeks to introduce a party at this late belated stage when the plaintiff has filed his evidence by way of affidavit.

6. In my opinion, by the proposed amendment no new party is sought to be added to the plaint. Only an explanation is sought to be given as to why the plaintiff/respondent has sued the petitioners in the individual name and not on behalf of the corporate entity, namely, M/s Experts Builder Pvt. Ltd. There appears to be no merit in the contention of the petitioners.

7. Accordingly, the present petition is dismissed.

JAYANT NATH, J

SEPTEMBER 06, 2016

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