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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 479/2016**
CARAVAN COMMERCIAL CO LTD

..... Petitioner

Through Mr.Kirti Uppal, Sr. Adv. with Mr.
K.Datta and Mr.Manish Srivastava,
Advocates.

versus

PUSHPA DEVI & ORS

..... Respondents

Through Mr.Deepak Sahni, Advocate for R-1.
Ms.Trisha Nagpal for Mr.Manish
Vashisht, Advocate for R-2 and R-3.
Mr.Rikky Gupta, Advocate for R-4
and R-5.
Mr.Lalit Gupta, Advocate for R-6 to
R-10.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **17.05.2016**

C.M. No.18802/2016 (exemption)

C.M. No.18803/2016 (exemption)

Exemption is allowed subject to just exceptions. Applications
disposed of.

CM(M) 479/2016 & C.M. No.18801/2016 (stay)

Petitioner/plaintiff is aggrieved by the order dated 23.4.2016
vide which his application filed by him under Order VI Rule 17 of the
CPC seeking amendment in the plaint had been dismissed.

The amendment was on two counts. The first count was on the

amendment qua the change of the name of the signatory which was permitted by the impugned order. The second related to an amendment qua the valuation clause.

The averments contained in the application under Order VI Rule 17 of the CPC have been perused.

The plaintiff wanted to amend para 36 of the plaint which relates to valuation of the suit by increasing its valuation for the relief of injunction from Rs.130/- to Rs.11 lacs which would accordingly raise valuation limit up to Rs.2,01,00,330/-. Submission in the application was that the valuation of the relief of injunction is discretionary and the plaintiff at that stage in its discretion thought it fit to get the plaint amended.

The Trial Court had dismissed the aforementioned prayer. The Trial Court had noted that no averments have been made in the application making out any justification for the amendment. This Court notes that there are eight defendants in the Trial Court and none of them had opposed the aforementioned prayer.

On advance notice, learned counsels for respondent nos.2 to 5 have put in their appearance; they reiterate this position. They submit that they have no objection to the prayer of amendment as sought for incorporating a change in para 36 of the original plaint is permitted.

This Court notes that there were two suits pending inter se the parties which were thereafter been consolidated by the Trial Court and the evidence was being conducted in connected CS(OS) No.1578/1992. It was at the stage of recording of evidence of the

parties that these suits which were originally filed in the High Court vide Notification no.27187/DHC/ORGL.dated 24.11.2015 have been transferred because of the change in pecuniary jurisdiction to the District Courts. The Trial Court in para 12 of the impugned order has noted the undisputed position of law which is that the relief of injunction may be valued by the plaintiff as per his will. This Court again reiterates that the defendants had not opposed this prayer except the contesting plaintiff of CS(OS) No.1578/1992. No objection has been raised by any of the defendants as has been mentioned in para 4 of the judgment.

A Bench of this Court in CS(OS) No.2918/2014 titled Jasper Infotech Pvt. Ltd. Vs. Deepak Anand & Ors. (on an application under Order VI Rule 17 CPC decided on 23.12.2015) relying upon a proposition of laid down in Lakha Ram Sharma V.Balar Marketing Pvt. Ltd. (2008) 17 SCC 671 had noted the legal position which is to the effect that merely because an amendment may take the suit out of the jurisdiction of that court is no ground for refusing that amendment. It is also a settled proposition that while considering whether the amendment is to be granted or not, the Court does not go into the merits of the matter and decide whether or not the claim made therein is bona fide or not.

Noting the above ratio as also the factual position in the instant case which is totally unopposed (as mentioned in para 4 of the judgment), the impugned order is set aside. Amended plaint be taken on record. Written statement to the amended plaint be filed in three weeks. This order is passed subject to payment of Rs.20,000/- to be

deposited with the Delhi High Court Legal Services Committee.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 17, 2016

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