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

+ **CS(OS) 2410/2010**

MAHENDRA JOSHI & ORS Plaintiffs

Through: Mr. K.C. Mittal, Advocate with
Ms. Ruchika Mittal, Advocate

versus

NAVIN BHAI SHAH & ORS Defendants

Through: Ms. Kaanan Gupta, Advocate for
Mr. Rajan Sabharwal, Advocate for D-4 and D-5.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **12.07.2016**

I.A. 4970/2016 (by the plaintiffs u/O VI R 17 CPC)

1. This application has been filed by the plaintiffs under Order VI Rule 17 CPC stating *inter alia* that there has been an inadvertent typographical error in para 22 of the plaint, which is the suit valuation para, wherein it has been stated that the suit has been valued for the purpose of jurisdiction at “Rs.100,000,000/- (Rupees One Crore Only)”. Permission is sought to substitute the words “One Crore” with “Ten Crores”.
2. Mr. K.C. Mittal, learned counsel for the plaintiffs submits that the plaintiffs have instituted the present suit under Section 92 CPC and they seek removal of the trustees of Dr. Hardikar Foundation Trust and have asked for appointment of new trustees. When the suit was instituted in

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November, 2010, it was averred in para 22 of the plaint, that for the purposes of jurisdiction, the suit had been valued at “Rs.1,00,000,000/- (Rupees One Crore Only)”. Notice was issued in the suit on 29.11.2010 and it has remained pending at the stage of service etc.

3. The explanation sought for seeking amendment of para 22 of the plaint is that due to a bonafide mistake that had crept in para 22 of the plaint, the jurisdictional value of the suit was mentioned as “Rs.one crore” in words whereas in figure, the amount has been stated as “Rs.100,000,000”. Learned counsel states that the plaintiffs noticed the aforesaid mistake only after the pecuniary jurisdiction of the High Court came to be enhanced in November 2015 to above Rs.2 crores. Hence, the present application.

4. Notice was issued on this application on 25.04.2016. Pursuant thereto, appearance was entered on behalf of the defendants No.1 to 3 and defendants No.4 and 5. However, none of the defendants have filed their replies. Learned counsel for the defendants No.4 and 5 submits that a bare perusal of the averments made in para 22 of the plaint would demonstrate that there is no scope of confusion or error on the part of the plaintiff in specifying the jurisdictional value of the suit as it has been specifically stated in words that the value of the suit is Rs.one crore. She states that fact of the matter is that the error was in typing the said amount in figures as an extra zero came to be typed in “Rs.100,000,000” and it is only after issuance of the Notification No.27187/DHC/Orgl. dated 24.11.2015, whereunder suits valued below Rs.2 crores have been directed to be transferred to the District Court that the plaintiffs have got wiser and filed the present *CS(OS) 2410/2010*

application, claiming *inter alia* that there has been a typographical error in para 22 of the plaint, which was never the case.

5. The Court is inclined to accept the submission made by learned counsel for the defendants No.4 and 5. The mismatch of the jurisdiction value stated in para 22 of the plaint in figures and words is not such an innocent error as sought to be portrayed that it never came to be noticed by the plaintiffs for the past five years, till the pecuniary value of the High Court was enhanced to above Rs.2 crores. The explanation sought to be offered in the present application sounds hollow and appears to be an attempt to take advantage of the error in writing the correct amount in figures in para 22 of the plaint. Apparently, the plaintiffs were quite clear in their mind at the time of institution of the suit that the value of the suit for the purposes of jurisdiction is Rs.One crore and that is how the said amount has been mentioned in words in para 22.

6. In view of the aforesaid position, the Court is not inclined to entertain the present application, wherein amendment of para 22 of the plaint has been prayed for. The application is nothing but an attempt to overcome the observations made by the Joint Registrar in the order dated 4.3.2016 with regard to the pecuniary jurisdiction of this Court. Accordingly, the prayer made in the application is declined.

7. The application is dismissed.

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1. In view of the Notification No.27187/DHC/Orgl. dated 24.11.2015, issued under Section 4 of the Delhi High Court (Amendment) Act, 2015 (Act 23 of 2015), the present suit is transferred to the Court of the District

Judge, Patiala House Courts Complex for further proceedings before the competent court on 1st September, 2016.

2. It is made clear that as both sides are duly represented today, no fresh notice for appearance shall be issued and the parties shall ensure their presence before the concerned Court on the aforesaid date.

HIMA KOHLI, J

JULY 12, 2016

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