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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 661/2015 & C.M. No.7511/2015**
MADHUKAR BHANOT & ANR

..... Petitioners

Through Ms. Nishtha Garg, Adv.
versus

SANTOSH BHANOT

..... Respondent

Through Mr. Vijay, Adv.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **04.04.2016**

The petitioner is aggrieved by the finding returned by the Trial Court in its impugned order dated 30.01.2015 vide which the application filed by the plaintiff (under Order 6 Rule 17 of the CPC) had been allowed.

The petitioner before this Court is the defendant in the Trial Court. His submission is that the impugned order suffers from an illegality.

This Court is not in agreement with this submission of the learned counsel for the petitioner. The impugned order suffers from no infirmity.

Record shows that the present suit has initially been filed as a suit for permanent and mandatory injunction. This was a suit filed by the mother against her erring son. Written statement was filed by the defendant. Before the issues were framed on 30.10.2014, an application under Order 6 Rule 17 of the CPC came to be filed by the plaintiff. The averments contained in the aforementioned application have

been perused. The contention was that the suit which was initially a suit for mandatory and permanent injunction be treated as a suit for mandatory injunction; the defendant be directed to handover the possession of the suit premises; damages have also been prayed at the rate of Rs.20,000/- per month. Accordingly, the corresponding paragraph in the cause of action also sought to be amended.

The version of the plaintiff was that her son was living at the second floor of the suit property as a licensee and his license was validly terminated. He was liable to pay damages at the aforesaid rate. Initially, as noted supra, the suit was for permanent and mandatory injunction but after the institution of the suit, the defendant started harassing the plaintiff even more. This had led her to seek possession of the suit property and not restrict the relief to a permanent and mandatory injunction alone. She also sought damages.

The law on amendment is clear. It is permissible to amend the pleading if it is not prejudicial to the other party; more so it should not be belated. It should be able to resolve the real controversy between the parties and at the same time to avoid the multiplicity of litigation.

Noting all these parameters, the impugned order allowing the prayer made for by the plaintiff and taking the amended plaint on record suffers from no infirmity. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

APRIL 04, 2016

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