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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 1150/2015 & C.M. No.27859/2015

RENU MARIA & ORS

..... Petitioners

Through Mr. P.P.Ahuja, Advocate

versus

GAJENDER BHASIN & ORS

..... Respondents

Through None

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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22.03.2016

Petitioners are aggrieved by the order dated 03.09.2015 vide which two applications had been decided by the Trial Court. The first was an application under Order 7 Rule 11 of the CPC and second was an application under Order 6 Rule 17 of the CPC.

Petitioners who are the defendants in the Trial Court are aggrieved by the finding returned in the order passed on the application under Order 7 Rule 11 of the CPC.

A perusal of the record shows that the present suit had been filed by the plaintiffs seeking mandatory injunction and declaration. In the course of the proceedings, an application under Order 6 rule 17 of the CPC has been filed by the plaintiffs. This was to the effect that it was only when application under Order 7 Rule 11 of the CPC was moved by the defendants that the plaintiffs learnt about inadvertent omission made

by the plaintiffs which was to the effect that although the plaint has been signed by all the plaintiffs verification clause was missing. Learned counsel for the petitioners on this count submits that the verification clause had been sent for the signatures of all the relevant plaintiffs. A perusal of the plaint would in fact disclose that the plaint has been signed by all the plaintiffs and separate affidavits had also been annexed but due to inadvertence the verification clause has not been added as the same has been sent to the plaintiffs for their signatures.

The submission of the plaintiffs all along being that this was brought to the notice of the plaintiffs only when the defendants has sought a rejection of the plaint on the ground that plaint is without a verification clause.

Trial Court has noted the factual matrix in the correct perspective. The Court has noted that this is an irregularity and it clearly appears that it due to an inadvertence on the part of the plaintiffs the verification clause did not form a part of the plaint. Separate affidavits of the plaintiffs had admittedly been annexed with the plaint. This Court also notes that the amendment had been allowed by the Trial Court to avoid a multiplicity of litigation; no prejudice is also suffered by the defendant. The Trial Court having exercised its discretion judiciously and fairly, the impugned order calls for no interference.

Dismissed with costs quantified at Rs. 10,000/-.

INDERMEET KAUR, J

MARCH 22, 2016

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