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

+ CM(M) 29/2017

SHRI VISHVAKARMA MANDIR

NIRMAN SAMITI & ANR.

..... Petitioners

Through: Mr.Zishaan Iskandari & Mr.Rachit
Gupta, Advocates.

versus

KANTA DEVI

..... Respondent

Through: Mr.Hem Kumar & Mr.K.Mukesh
Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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03.05.2017

CM(M) 29/2017

1. This petition has been filed against the order dated 6th December, 2016, passed by learned Civil Judge (South), Saket Courts, Delhi in Suit No.83844/2016 whereby the application filed by the petitioners/defendants under Order VI Rule 17 read with Section 151 CPC seeking amendment of the written statement has been dismissed by the learned Trial Court
2. Heard learned counsel for the parties.
3. Mr.Hem Kumar, learned counsel for the respondent/plaintiff submits that so far as the prayer of the petitioners/defendants to correct the errors in the written statement regarding names and dates, as stated in paragraph 11 of this petition i.e. CM(M) No.29/2017 is concerned, the respondent/plaintiff has no objection if the same is allowed to be corrected on such terms and conditions as deemed fit by this Court.
4. Paragraph 11 of this petition i.e. CM(M) No.29/2017 reads as under:

“11. That it is submitted that the written statement suffered material inconsistency and insufficiency of facts which was inadvertently

overlooked by the petitioners/defendants at the time of filing of the written statement. These facts were so glaringly inconsistent that it may be fatal to the Petitioner's case. These facts look nothing but typographical error on the face of it and are required to be corrected to adjudicate the matter in a just and reasonable manner. It is an admitted fact the Respondent/Plaintiff's husband name is Pandit Dalchand who was initially appointed as helper to Pandit Achheshwar Mishra. Pandit Dalchand was appointed as the Priest of the Temple by the Samiti (Petitioner No.1) after the demise of Pandit Achheshwar Mishra. However, the written statement filed by the Petitioners, inadvertently, due to some typographical errors gives an impression that the Husband of the Plaintiff/respondent was appointed after the death of Pandit Dalchand, which is factually incorrect, as mentioned in para 2, para 3, para 4 and para 5 of the written statement (Annexure P-9).

Further, the written statement in para 3 and para 7, due to typographical error, mentions the date of appointment of new Pujari by the Samiti (Petitioner No.1) as 15.05.2016 which is factually incorrect and the correct date as per the appointment letter is 01.04.2016. ”

5. In view of the no-objection given by learned counsel for the respondent/plaintiff, the amendment/correction, as stated in paragraph 11 of this petition and extracted above, is allowed, subject to cost of Rs.5,000/- to be paid by petitioners/defendants to the learned counsel for the respondent/plaintiff on the next date of hearing fixed before the learned Trial Court.

6. Learned counsel for the petitioners/defendants also seeks permission to amend the written statement to include certain facts, which are clarificatory in nature and could not be pleaded earlier.

7. Since the Trial has commenced in this case, the petitioners/defendants cannot be permitted to plead additional facts which were well within their knowledge at the time of filing of the written statement.

8. The petition is allowed to the extent as referred to in para 5 of this order.

9. Copy of the order be given dasti to learned counsel for the parties and be also sent to the concerned Court for information and compliance.

CM No.931/2017 (stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 03, 2017

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