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

+ CM(M) 309/2017

TARUNDEEP AGGARWAL

.....Petitioner

Through: Mr.Vikas Aggarwal and Mr.Karan
Arora, Advocates.

versus

JEET LAL & ANR

.....Respondents

Through: Mr.Roshan Lal Goel, Advocate for
R-2 and R-3.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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05.05.2017

CM No.10738/2017

1. Exemption allowed subject to all just exceptions.
2. Application is disposed of.

CM(M) 309/2017

1. The petitioner is aggrieved by the order dated 19th December, 2016 passed by learned Trial Court in Civil Suit No.6393/2016 whereby his application under Order VI Rule 17 CPC seeking amendment in the plaint as well as correction of the address of the plaintiff has been dismissed.
2. The relevant portion of the impugned order dated 19th December, 2016 containing the discussion by the learned Trial Court while dismissing the application under Order VI Rule 17 CPC filed by the petitioner, reads as under:-

'The trial in the present suit has already initiated after the framing of issues on 31.07.2015. Even the plaintiff has been examined in chief on the last date of hearing. Therefore, the

present amendment application is covered under the proviso to Order 6 Rule 17 CPC. The plaintiff has to show that inspite of due diligence he was not able to raise the proposed amendment before the commencement of the trial.

In the entire application not a single word has been uttered as to the reasons for now bringing on the facts regarding defects in the chain of title of defendant no.1. Admittedly, the WS was filed by defendant No.1 on 07.07.2014 pleading about his own title with the documents. The plaintiff even filed the rejoinder on 28.07.2014 disputing the said fact. The documents on basis of which the plaintiff wishes to amend his plaint are the certified record of title documents in favour of Smt.Suman Kaur. The application for the same was move on 15.03.2016 after around two years of the filing of WS by defendant no.1. Thus the said act on the part of plaintiff shows the lack of due diligence in pursuing the matter. The other amendment proposed is in the Memo of Parties and it is not clear in the said application that as to when the said clerical error came to the knowledge of the plaintiff. The delay in filing the amendment application is unexplained and hence Court cannot allow the plaintiff to waste the time of the Court. The application in respect to the amendment of plaint is dismissed.'

3. During the course of hearing, learned counsel for the petitioner submits that he is restricting his prayer to the extent that petitioner may be allowed to correct the address of the petitioner/plaintiff in the memo of parties, as given in Para No.8 (B) of the application under Order VI Rule 17 CPC.
4. Learned counsel appearing on behalf of respondents No.2 and 3 submits that he has no objection if only the prayer of the petitioner/plaintiff to correct the details of his address in the memo of parties is allowed.
5. In view of the submissions made by learned counsel for the petitioner/plaintiff and no-objection given by learned counsel for

respondents No.2 and 3, the petitioner is allowed to correct his address, as given in para 8 (B) of the application under Order VI Rule 17 CPC, in the memo of parties.

6. The petition stands allowed to above extent only.

7. A copy of this order be sent to the Court concerned for information and be also given to learned counsel for the parties, as prayed.

CM No.10737/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 05, 2017

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