

\$~A-49

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

+ CM(M) 377/2017 and CM Nos. 13467-68/2017

ANUJ & ORS Petitioners
Through Mr.Mohit Ramdeo, Advocate

versus

RAVI VIKRAM SINGH Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
11.04.2017

%

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 08.11.2016 by which an application filed by the petitioners under Order 14 Rule 5 CPC for amending issue No. 1 and framing issue No. 5 was dismissed.
2. The suit is filed by the respondent for recovery of Rs.50 lakhs. The respondent places reliance on five post dated cheques for Rs. 10 lakhs each said to have been handed over by the petitioners, two of which have been returned unpaid.
3. As per the application filed by the petitioners, he seeks to amend issue No.1 as framed on 20.03.2014 which reads as follows:-
“(i) Whether the plaintiff is entitled to the suit amount? OPP”
4. The petitioners seek to modify the above issue as follows:-
“(i) Whether the plaintiff is entitled to Rs.36,35,000? (OPP)”

5. In addition, he seeks to add issue No.5 which reads as follows:-
“(v) Whether the plaintiff was/is the partner of M/s.Manvi Petroleum, if yes, whether the present suit for recovery of investment is maintainable against the Defendants? (OPD)”
6. The trial court rejected the said application holding that neither of the two issues is relevant.
7. I have heard learned counsel for the petitioners. He has stressed that in the plaint/replication that is filed, there is an admission of receipt of sum of Rs. 13,65,000/- by the respondent and consequently, he submits that the said amount gets reduced by the said amount and the suit would become a suit for recovery of Rs.36.35 lakhs. No other ground has been raised.
8. In my opinion, there is no merit in the said contention. The plaint is filed for recovery of Rs.50 lakhs based on five post dated cheques of which two have been returned unpaid. No doubt, the respondent accepts receipt of Rs.13.65 lakhs but explains the same that it was paid by the petitioners on account of interest payments that have been made by the respondent to the concerned banks. Basically, the petitioners seek to adjust this sum of Rs.13.65 lakhs against the principal which the respondent denies.
9. The petitioners cannot by an application under Order 14 CPC seek to adjudicate disputed questions of fact.
10. There is no merit in the petition and the same is dismissed.
11. All pending applications also stand dismissed.

JAYANT NATH, J

APRIL 11, 2017

rb