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

+ CM(M) 397/2017

MANJU JAIN & ORS

..... Petitioners

Through: Mr. S.K. Sharma and Mr. Mayank
Bansal, Advs.

Versus

VIDYA WANTI (DECEASED) THROUGH LRS
& ORS

..... Respondents

Through: Mr. M. Mohsin Israili, Adv. for R-1.
Mr. Bharat Singh, Adv. for R-2/DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.07.2017

1. This petition under Article 227 of the Constitution of India impugns the order dated 22nd December, 2016 of Civil Judge-06 (West), Tis Hazari Courts, Delhi in CS Nos.122/2014 & 121/2014 filed by the deceased respondent No.1 / plaintiff Vidya Wanti against the petitioners / defendants and respondents No.2&3 / defendants.
2. Vide the impugned order, the application of the respondent No.1/plaintiff under Order VI Rule 16 of the Code of Civil Procedure, 1908 (CPC) qua the petitioners/defendants was allowed.
3. The petition was entertained and notice thereof ordered to be issued.
4. Though the petitioners/defendants did not take any steps for issuance of notice but the counsel for the respondent No.1/plaintiff and the counsel for the respondent No.2/Delhi Development Authority appear.
5. The counsel for the respondent No.1/plaintiff seeks time to file reply.

6. There is ordinarily no need for a reply to a petition under Article 227 of the Constitution.
7. The counsel for the petitioners/defendants has been heard.
8. I have at the outset enquired from the counsel for the petitioners/defendants that if the order impugned in this petition is a common order in two suits, how one petition is maintainable.
9. No answer is forthcoming.
10. Be that as it may, the said technicality is ignored for the time being.
11. It appears that the application of the respondent No.1/plaintiff for amendment of the plaint was allowed and in pursuance whereof the petitioners/defendants filed a written statement. It was the contention of the counsel for the respondent No.1/plaintiff in the application aforesaid under Order VI Rule 16 of CPC that the petitioners/defendants in the written statement to the amended plaint have made changes beyond the scope of the amendment carried out by the respondent No.1/plaintiff.
12. The learned Civil Judge, finding merit in the said plea, has allowed the application of the respondent No.1/plaintiff.
13. The counsel for the petitioners/defendants has argued that once a plaintiff carries out an amendment to the plaint, the defendant, while filing written statement thereto, is entitled to totally change the written statement from that earlier filed and is not required to reply only to the pleas taken by way of amendment. It is argued that the plaintiff, by amending plaint, runs this risk.

14. Attention of the counsel for the petitioners/defendants has been drawn to the judgment of Full Bench of this Court in ***Kedar Nath Vs. Ram Parkash*** 1999 (48) DRJ 589 holding to the contrary.
15. The counsel for the petitioners/defendants withdraws the petition.
16. Dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J.

JULY 20, 2017

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