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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 05th December, 2017

+ CM(M) 1379/2017 and CM 44211-44212/2017

SUNITA LOONA & ORS

..... Petitioners

Through: Mr. Pradeep K. Bakshi and Mr.
Puneet Khurana, Advocates

versus

MANU KUMAR & ORS

..... Respondents

Through: Mr. Pawan Mathur, Standing
counsel for R-3/DDA

CORAM:

HON'BLE MR. JUSTICE R.K. GAUBA

JUDGMENT (ORAL)

1. The civil suit (CS no.88/2017) was instituted by the first and second respondents herein (plaintiffs) in the year 2001 seeking the relief of declaration respecting the right, title and interest in the subject property. The suit is being contested by the defendants which includes the petitioners herein. It appears one of the contentions urged by the said defendants has been that they are in possession of the subject property (a vacant plot of land) and the suit seeking the relief of declaration simplicitor without the consequential relief could not be maintained, reference being made in this regard to Section 34 of the Specific Relief Act, 1963.

2. On the application of the plaintiffs under Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC), the learned trial court has

allowed amendment of the plaint at the instance of the said plaintiffs (respondents herein) so as to add the consequential relief for a decree of possession. It is the said amendment to which exception is taken by the petitioners at hand, the argument primarily being that the defect could not have been allowed to be rectified as the relief is hit by the provision contained in Order II Rule 2 CPC.

3. The petition is devoid of substance. The learned trial court has exercised its judicial discretion appropriately which does not call for any interference. Pertinent to note the amendment has been allowed at a stage when the suit has not yet entered trial, even the issues not having been framed till date.

4. The petition and the applications filed therewith are thus dismissed.

DECEMBER 05, 2017

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R.K. GAUBA, J.

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