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

+ CM(M) 246/2017 and CM APPL.8248/2017 (stay)

NAHEEM KHAN

..... Petitioner

Through: Mr. Alok K. Palai, Advocate with
Ms. Prabha Goswami, Adv.

versus

AMAN JAIN

..... Respondent

Through: Mr. Arun Adlakha, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **22.02.2018**

The petitioner is the plaintiff of civil suit (CS No.840/2016) instituted in January, 2015 under Order XXXVII of the Code of Civil Procedure, 1908 (CPC) for recovery of Rs.5,00,000/- against the respondent (the defendant). It appears the defendant upon being served had put in appearance and in answer to the summons for judgment, submitted an application for leave to defend.

Having submitted the said application, he moved an application under Order VI Rule 17 CPC seeking to amend the pleadings in the said application, which is yet to be adjudicated upon. In the original application for leave to defend, the contention raised was that the plaintiff (the petitioner) had concealed the material facts about the compromise having been entered upon between the parties, whereunder the plaintiff had been receiving instalments as re-payment, the amount remaining to be paid being in the sum of Rs.50,000/-.

The amendment proposed was to the effect that the factum of paying the entire money except Rs.50,000/- had not clearly come up in the pleadings. The learned Additional District & Sessions Judge by his order dated 08.12.2016 allowed the said amendment to be incorporated observing that it would not cause any prejudice to the plaintiff inasmuch as the amendment do not bring out any alteration to the grounds of defence taken.

Having heard and perused the record, this court finds no error in the view taken by the trial Judge. The defence remains the same as originally set out in the application for leave to contest, the clarity brought about by amendment only relating to the amount due.

The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

FEBRUARY 22, 2018

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