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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 981/2018 and CM Nos. 34320/2018 & 34319/2018**

SHEKHAR MAHESHWARI Petitioner
Through: Mr.Bipin Kumar Jha, Advocate

versus

JYOTI BHATIA & ORS Respondents
Through: *Nemo*

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **28.08.2018**

Vide the present petition, the petitioner assails the impugned order dated 7.7.2018, of the learned Administrative Civil Judge (North-West), Rohini Courts, in CS No. 61146/16 whereby an application under Order VI Rule 17 CPC filed by the plaintiff of the said suit, arrayed as respondent to the present petition, was allowed with the amendments allowed to be made in the plaint, as prayed vide an application dated 26.2.2018 through which *inter alia*, the plaintiff of the said suit sought to incorporate the valuation details and also appears to have inserted an amount claimed in relation to the arrears of rent till the month of October, 2017.

On behalf of the petitioner, it is urged that the said amendment caused a change in the nature of the suit and that the averments made in the application for amendment, which amendment had been allowed to the plaintiff of the said suit, the respondent herein, is

wholly vague as also observed to that effect in the impugned order dated 7.7.2018 to the effect that the prayer clause 'b' of the application seeking amendment was not happily worded, however, in any event the matter was at the initial stages of the trial and the trial was to commence and no prejudice would be caused in any manner to the defendant, i.e., the petitioner herein, in as much as there was no change in the nature of the suit.

A bare perusal of the plaint, as initially submitted, indicates that it was a suit for eviction, possession, permanent injunction, recoveries of arrears of rent, damages and *mesne* profits. Paragraph 19 of the plaint, as initially submitted, contained blanks in relation to the valuation qua the reliefs prayed. During the course of the proceedings before the learned Trial Court, an application under Order XII Rule 6 of the CPC was filed by the plaintiff, i.e. the respondent, was allowed vide order dated 13.10.2016 by the learned Trial Court which on being assailed by the petitioner herein, the said order was set aside in view of the factum that the valuation qua the averments in paragraph 19 of the plaint, as initially submitted, had not been brought on record with the directions to the learned Trial Court and the plaintiff to look into the said aspect.

As rightly observed vide the impugned order, the valuation put forth by the plaintiff has essentially to be allowed to be brought on record. As to what is the value of the relief sought is within the domain of the plaintiff the plaintiff being *dominus litus*. Apart from the same, the aspect that cannot be overlooked is that the suit was instituted in the year 2015 and thus at that stage, the relief that has

been sought vide Clause 'b' related to the plaint, as initially submitted, related to the decree qua the arrears of rent from June 2015 @ Rs.7,000/- per month up to February, 2016 with the application under Order VI Rule 17 CPC having been filed in 2018 dated 26.2.2018 seeking relief in relation to the decree of recovery of arrears of rent from June 2015 at the very same rate of Rs.7000/- per month as was submitted in the initial plaint till October, 2017 and the said aspect cannot, in any manner, be termed to be a change in the nature of the suit.

Taking into account the factum that the said application for amendment was filed much after the year 2015 when the plaint was initially instituted, there is no infirmity in the impugned order. The petition and the accompanying applications are declined.

ANU MALHOTRA, J

AUGUST 28, 2018/sv