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

+ **CM(M) 118/2020**

SHANTI PRAKASH GOENKA

..... Petitioner

Through: Ms. Neha Garg, Advocate.
(M:9911536363)

versus

PIYOOSH GOYAL

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **31.01.2020**

CM APPL. 3922/2020

1. Allowed, subject to all just exceptions. Application is disposed of.

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2. The present petition challenges the order dated 18th January, 2020, by which a simple application to correct a typographical error in paragraph (4) of the plaint was rejected by the Trial Court.

3. The suit is for recovery of a sum of Rs.36,30,000/-. Para four of the plaint reads as under:

*“That the amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) was transferred through RTGS on **25.07.2016** by the plaintiff from his bank i.e. ICICI Bank, Gurdwara Road, Karol Bagh Branch to the bank of the defendant i.e. Kotak Mahindra Bank, 79, Old Rajinder Nagar Market, New Delhi-110060 Branch.”*

4. The case of the Petitioner/Plaintiff (*hereinafter*, “*Plaintiff*”) is that the date on which the transfer through RTGS was made was 14th July, 2016, which is stated to be clear even from the statement of account annexed with

the plaint. In paragraph 4 of the plaint, the date of 25th July, 2016 was inadvertently mentioned and was a typographical error. However, the Court below has rejected the application to correct the typographical error on the ground that only an application under Order VI Rule 17 CPC would be maintainable.

5. A perusal of the impugned order shows that on 4th May, 2019, the counsel for the Defendant had stated that he had no objection if the application was allowed, however, another counsel who appeared on 18th January, 2020 argued that the correction sought could only be carried out by an application under Order VI Rule 17 CPC. The order dated 4th May, 2019 is extracted below:

“Reply to the application under section 153 of CPC made on behalf of the plaintiff not filed by counsel for the defendant. It is submitted by counsel for the plaintiff that the defendant does not want to file any written reply to the application under section 153 of CPC made on behalf of the plaintiff on 27.4.2019. It is further submitted by counsel for the defendant that the defendant has no objection if the said application is allowed. Statement of counsel for the defendant is separately recorded in this regard.

At the request of counsel for the plaintiff, who claims that the procedure under Ordre VI of CPC is not required to be followed in connected with the application under section 153 of CPC and seeks time to address the court on this point, put up for consideration on the application under section 153 of CPC and framing of issues on 01.6.2019. ”

6. The approach of the Trial Court has been hyper-technical, to say the least. The correction is only a typographical error which does not require an application under Order VI Rule 17 CPC. The correction ought to have been

allowed. The Plaintiff's application is allowed and the error is directed to be corrected. In paragraph four of the plaint, the date shall now read as 14th July, 2016. The counsel is permitted to make the correction by hand in the trial court record.

7. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

JANUARY 31, 2020

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