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

+ **CM(M) 1350/2017 & CM APPL. 43223/2017**

ROHTASH SINGH AND ANR.

..... Petitioners

Through: Mr. Sunil Chauhan, Advocate.
(M:9810213040)

versus

SATBIR & ANR

..... Respondents

Through: None

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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08.01.2020

1. The Respondents/Defendants (*hereinafter 'Defendants'*) have been served, however, none appears for them even today and on several other previous dates. The present petition is filed challenging the order dated 28th August, 2017 by which an application under Order VI Rule 17 CPC filed by the Petitioners/Plaintiffs (*hereinafter 'Plaintiffs'*) has been dismissed by the Trial Court on the ground that issues have already been framed and the trial has commenced. A perusal of the record shows that issues were framed on 29th November, 2016 and on the very next date, the present application was filed by the Plaintiffs seeking to add a further relief in the matter.

2. The suit is originally for permanent injunction in respect of the land located in village Kangan Heri, Delhi. The suit was filed against two Defendants - Mr. Satbir and Mr. Balraj Rana. In view of the admission/denial which was conducted on 29th November, 2016 and that one of the Defendants admitted the conveyance documents in favour of the Plaintiffs including the sale deed, the Plaintiff sought amendment in the

Plaint, to seek cancellation of the sale deed between Defendant No.1 and Defendant No.2 in addition to the relief of injunction.

3. The Defendants have not appeared despite service. The trial court rejected the amendment on the basis of the proviso to Order 6 Rule 17 CPC. This Court is of the opinion that the rights in respect of the property ought to be comprehensively adjudicated in order to ensure that there is no multiplicity of litigation. Since the application was moved on the very next date after the admission/denial was conducted, it is clear that the Plaintiffs are not trying to delay the suit. Further, the evidence of the Plaintiffs is yet to be tendered in the suit. Under these circumstances, the application under Order VI Rule 17 CPC is allowed. The amended plaint be taken on record by the Trial Court. If any additional issue needs to be framed after filing of the amended written statement, the same may be framed and the suit shall proceed to trial.

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

PRATHIBA M. SINGH, J.

JANUARY 08, 2020

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