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

Date of decision: 03.08.2023

+ CM(M) 1045/2023 & CM APPL. 33946/2023

SURENDER SINGH

..... Petitioner

Through: Mr. Rajesh Kumar and Mr. Gaurav Rathor, Advocates.

versus

VIJAY KUMAR AGGARWAL & ORS.

..... Respondent

Through: None.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition impugns the order dated 21.05.2018 passed by Civil Judge, Karkardooma Courts Complex, Delhi ('Trial Court') in Civil Suit No. 6359/2016, titled as **Smt. Vijay Aggrawal v. Sh. Surinder Malik & Ors.**, whereby the application filed by the Petitioner under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC') was dismissed.

The operative portion of the judgment reads as under:

"12. Present facts in hand are analysed on threshold of the observations made above. In the instant matter, defendant no.2 virtually intended to substitute substantially the existing written statement with in the form of amended written statement. A perusal of the proposed amendment would show that each and every para of the preliminary objection of original written statement namely para no. 1 to 4 are sought to be substituted by new 10 paras and para no.3,5,7 and 10 of reply on merits are sought to be substituted by new paras. No attempt has been made by the defendant no.2 to point out what is sought to be omitted, altered, substituted or added in the proposed amendment. The lines, phrases and words which are being added or deleted have not been mentioned in the



present application. It is not possible for the court to decipher from reading of the application as to what is being amended or what is being deleted or what is being added. Hence, it is not possible to find out as to whether any new facts has been introduced or existing fact has been deleted or whether any admission made is sought to be replaced or retracted by the defendant no.2 in the garb of present application. Defendant no.2 cannot be permitted to replace the substantial existing pleadings with new pleadings. It is also not possible to make out whether the proposed amendments are necessary for the purpose of determining the real question in controversy between the parties. Hence, no ground is made out to allow the application.

(Emphasis Supplied)

2. The learned counsel for the Respondent has now placed before this Court on 25.07.2023 a tabular comparison of the original written statement and the proposed amendments.
3. The learned counsel for the Petitioner seeks liberty to file a fresh application under Order 16 Rule 7 CPC before the Trial Court with the said tabular representation and setting out the justification in the application for seeking the proposed amendments so as to enable the Trial Court to appreciate and adjudicate the pleas of the Petitioner.
4. This Court has perused the order of the Trial Court and is of the opinion that the said order suffers from no infirmity. The Trial Court has observed that the amendments sought by the Petitioner herein are not decipherable and therefore the application was dismissed. The order dated 21.05.2018 is, therefore, upheld and the Petitioner is directed to pay the costs as imposed by the Trial Court *vide* the said order.
5. The learned counsel for the Petitioner has informed this Court that issues have not been framed in the suit and the matter is next listed before the Trial Court on 22.08.2023 for hearing a miscellaneous application filed by the Petitioner herein.
6. The Petitioner herein is granted liberty to file an appropriate application



under Order 6 Rule 17 CPC with the tabulation filed before this Court and setting out the reasons for seeking the said proposed amendments. The Trial Court is requested to consider the said application, if filed, within one (1) week, in accordance with law uninfluenced by the order dated 21.05.2018. If no application is filed within one week, the liberty granted by this order shall stand revoked.

7. It is made clear that this Court has not expressed any opinion on the merits of the amendments proposed by the Petitioner or the maintainability of the amendment at this stage of the proceedings.

8. With the aforesaid directions and liberty reserved to the Petitioner, the present petition along with pending application stands disposed of.

MANMEET PRITAM SINGH ARORA
(JUDGE)

AUGUST 3, 2023/msh/sk

[Click here to check corrigendum, if any](#)

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