



2023:DHC:9323



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

% **Pronounced on: 15th December 2023**

+ C.R.P No. 165/2022 and CM APPL. Nos.43352-53/2022

USHA Petitioner

Through: Mr.Shekhar Kaushik and Mr.S.S.
Dubey, Advocates (Through VC)

versus

RAJ KUMAR Respondent

Through: Ms.Sudershani, Advocate (Through
VC)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The revision petition has been filed under Section 115 of Code of Civil Procedure, 1908 (hereinafter “CPC”), by the petitioner seeking the following reliefs:-

“a) Call the records of the Trial Court and allow the present revision petition with exemplary cost on the respondent and set-aside the order dated 25.02.2021 in CS No, 3263/2016, passed by the court of Shri Raghubir Singh, ADJ-01, East, Karkardooma Courts, Delhi in case titled as Raj Kumar Vs Manoj Kumar & Anr.

b) Pass any further and /or such other relief(s) as this Hon’ble Court deems fit and proper in the facts and circumstances of the case, be also granted to the petitioner..”



FACTUAL MATRIX

2. The respondent (plaintiff before the learned Trial Court) had filed the civil suit no. 3263/2016, before the learned ADJ-01, East, Karkardooma Court, New Delhi, against the petitioner (defendant no.2 before the learned Trial Court) and her husband (defendant no. 1 before the learned Trial Court) based on certain alleged false facts and documents i.e. gift deed in respect to Khasra no. 340/145 admeasuring 150 sq. yds (hereinafter “suit property”).

3. The respondent herein filed the aforesaid civil suit on the ground that the respondent allegedly allowed the husband of defendant no.2/petitioner herein to reside as a licensee in one room and one kitchen at the ground floor of the suit property and upon the direction of the respondent, the petitioner did not vacate the premises.

4. Thereafter, the petitioner filed an application dated 30th July 2019 under Order VI Rule 17 read with section 151 of the CPC, on the ground that the revenue documents i.e., *Fard* reflects that the suit property belongs to the Gram Sabha land and the said fact was not disclosed before the learned Trial Court.

5. The learned Trial Court while adjudicating the aforesaid application held that the said application is merely a tool to prolong the trial of the case and accordingly dismissed it vide the impugned order dated 25th February 2021.



6. Aggrieved by the abovesaid impugned order, the petitioner has approached this court by way of filing the instant civil revision petition.

SUBMISSIONS

(on behalf of the petitioner)

7. Learned counsel appearing on behalf of the petitioner submitted that the learned Trial Court erred in passing the impugned order since it failed take into consideration the entire facts and circumstances surrounding the dispute between the parties.

8. It is submitted that as per the revenue documents i.e., *Fard* the suit property belongs to the Gram Sabha land and it is an important fact which was not disclosed before the learned Trial Court. The aforesaid fact was undisclosed due to the inadvertent error on the part of the petitioner's previous counsel before the learned Trial Court.

9. It is submitted that as per the evidence of respondent, the official of SR VIII was summoned by the respondent on 19th March 2018 who stated that the ownership of the property is not verified at the time of execution of the gift deed. In the instant case, the alleged owner of the suit property i.e., the respondent was declared as the owner on the basis of the said gift deed however, there was no verification carried out by the officials regarding genesis of '*Fard*'.

10. It is further submitted that in light of the aforesaid statement it can be



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concluded that the document on the basis of which the respondent is claiming ownership i.e., ‘Fard’ has not been verified by the officials.

11. It is submitted that the present gift deed, is in violation of the provisions of The Indian Stamp Act, 1899 (hereinafter “Stamp Act”) since the stamp duty of the gift deed was paid by the donee and not the donor which is violation of the provisions of the Stamp Act.

12. It is submitted that as per the statement of the witness before the learned Trial Court, whereby, in the said testimony of the witness it is clearly stated that the document i.e. “Fard” could not be verified on the basis of the statement of the donor. Moreover, based on the evidence, the said official had admitted that *“we look for the ownership at the time of registration of gift deed of the donor. The donor is stated to have become the owner on the strength of Fard, we didn’t verify if the Fard was right or wrong. The ‘Fard’ was submitted in the file of the case by the donor, during presentation of documents in the office”*.

13. The counsel for the petitioner submits that the learned Trial Court without appreciating the facts and circumstances, passed the impugned order, on the basis of assumption and presumption thereby, wrongly opined the same and dismissed the application of the petitioner vide the impugned order dated 25th February 2021.

14. It is therefore submitted that in view of the foregoing submission the instant petition may be allowed and the impugned order may be set aside.



(on behalf of the respondent)

15. *Per Contra*, the learned counsel appearing on behalf of the respondent submitted that the instant revision petition against the impugned order dated 25th February 2021 is not maintainable and ought to be dismissed outrightly as the evidence of the petitioner and her husband has already been taken on record during the course of cross examination and no such facts were raised or suggested by the petitioner.

16. It is submitted that the facts on the basis of which the petitioner is seeking amendment is in fact a belated thought, since the petitioner is *mala fide*ly alleging the same under the garb of mistake of her previous counsel.

17. It is contended that as per the proviso of the Order VI Rule 17 of the CPC, the burden to proof of whether the due diligence has been exercised on the part of the party seeking the amendment after the commencement of the trial is on the petitioner in the instant case and the petitioner has not exercised the due- diligence as envisaged in the proviso of the Order VI Rule 17 of the CPC.

18. It is submitted that in the event that the application filed by the petitioner under Order VI rule 17 of the CPC is allowed, the nature of the suit would stand modified, which is impermissible as per the law and hence, the instant petition ought to be dismissed by this Court.

19. Hence, in view of the foregoing submissions, the respondent seeks



that this Court may dismiss this petition thereby, upholding the impugned order.

ANALYSIS AND FINDINGS

20. The matter was heard at length with arguments advanced by the learned on both sides. This Court has duly considered the factual scenario of the matter, judicial pronouncements relied on by the parties and pleadings presented by the learned counsel of the parties.

21. Before delving into the technical paraphernalia of the issues raised before this Court, it is apposite for this Court to analyze the impugned order dated 25th February 2021, the same is reproduced herein:

“ Heard on the said application. The application in hand was filed as on 30.07.2019 when the matter had already reached the stage of final arguments. By way of application in hand, it is tried to bring on record that the suit property/land in dispute is/was infact land of Gram Sabha and not the land of ancestors of the contesting parties. The suit was filed way back in the year 2016 and no sort of proceedings alleging therein or showing the defense on these lines nowhere appeared. Even during the course of PE or DE, nothing such was suggested. The application in hand, thus, not only highly belated but is also a tool to protract the trial of the case which otherwise had reached the stage of final arguments in mid 2019. Accordingly, the application in hand is liable to be disposed of as dismissed.”

22. This Court shall now refer to the amended portion of the petition which the petitioner wants to incorporate and the same is as follows:



“That the suit property/land in dispute is the land of Gram sabha and not the ancestral or any self-acquired property of the great-grandfather of the plaintiff and defendant No.1 and the aforesaid fact can be duly reflected from the fard of the Suit Property.

That it is relevant to point out here that the great-grandfather of the plaintiff and the defendant No.1 was residing in the suit property/land in dispute by way of adverse possession and thereafter the further legal heirs including both the parties are living in the capacity only by way of adverse possession and not as the sole and absolute owners of the same. The copies of relevant documents in this regard viz. a copy of Fard in the name of Sh. Maan Singh, S/O Sh. Mahu Singh, copy of water bill in respect of the suit property depicting the name of Sh. Man Singh, Copy of Aadhar Card, Ration Card, Gas Connection, Bank Passbook are enclosed herewith for the kind perusal of this Hon'ble Court.”

23. The instant petition has been filed under Section 115 of the CPC, whereby, the petitioner has sought the revision of the impugned order since it has been alleged by her that the same carries errors of jurisdiction. Therefore, in order to adjudicate the issues of the matter in hand, it is pertinent to understand the context and legislative intent behind the enactment of Section 115 of the CPC. The said Section has been reproduced for reference hereunder:

“115. Revision.— ⁴ [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—



*(a) to have exercised a jurisdiction not vested in it by law,
or*

(b) to have failed to exercise a jurisdiction so vested, or

*(c) to have acted in the exercise of its jurisdiction illegally
or with material irregularity, the High Court may make
such order in the case as it thinks fit:*

¹*[Provided that the High Court shall not, under this section,
vary or reverse any order made, or any order deciding an issue,
in the course of a suit or other proceeding, except where the
order, if it had been made in favour of the party applying for
revision would have finally disposed of the suit or other
proceedings.]*

²*[(2) The High Court shall not, under this section, vary or
reverse any decree or order against which an appeal lies either
to the High Court or to any Court subordinate thereto.*

³*[(3) A revision shall not operate as a stay of suit or other
proceeding before the Court except where such suit or other
proceeding is stayed by the High Court.]*

*Explanation.— In this section, the expression “any case
which has been decided” includes any order made, or any
order deciding an issue in the course of a suit or other
proceeding.]”*

24. Section 115 of the CPC, deals with the High Court’s power of revision. Briefly stating, in a case which is not subject to appeal, the High Court is empowered to call for the records of the case decided by the Court below, and if the Court below has exercised a jurisdiction vested in it by law, or failed to exercise jurisdiction vested by law or acted with material



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irregularity, etc. in the exercise of its jurisdiction, the High Court may interfere.

25. Section 115 of the CPC invests all High Courts with revisional jurisdiction. It declares that the High Court may call for the record of any case which has been decided by any Court subordinate to such High Court wherein no appeal lies, to satisfy itself on three aspects; (i) that the order passed by the subordinate Court is within its jurisdiction; (ii) that the case is one in which the Court has power to exercise its jurisdiction; and (ii) that in exercising jurisdiction the Court has not acted illegally, that is, breach of some provision of law, or with material irregularity, that is by committing some error of procedure in the course of trial which is material in that it may have affected the ultimate decision.

26. The provision thus takes within its limited jurisdiction, the irregular exercise or non-exercise of it, or the illegal assumption of it. It is not directed against conclusions of law or fact in which the question of jurisdiction is not involved. In other words, it is only in cases where the subordinate Court has exercised jurisdiction not vested in it by law, or has failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity that the jurisdiction of the High Court may be properly invoked.

27. The primary objective of Section 115 of the CPC, is to prevent subordinate Courts from acting arbitrarily, capriciously and illegally or



irregularly in the exercise of their jurisdiction. It clothes the High Court with the powers to see that the proceedings of the subordinate Courts are concluded in accordance with law within the bounds of their jurisdiction and in furtherance of justice.

28. The term 'jurisdiction' has not been defined in the CPC. The definition of the same has been defined by the Hon'ble Supreme Court and various High Courts by way of judgments. The said term means 'the power of a Court to hear and decide a case or to pass a certain order' and 'the right or authority to apply laws and administer justice'. The expression 'jurisdiction' is a verbal cast of many colors, the adoptive definition of the same has to be interpreted subjectively, i.e., depending upon the nature of the facts and circumstances of each case.

29. It is a settled principle of law that the Courts below have the jurisdiction to decide the case, and in context of the provision of revision, even if the Court below decides the case wrongly, they do not exercise their jurisdiction illegally or with material irregularity. In *N.S. Venkatagiri Ayyangar v. Hindu Religious Endowments Board, Madras [(1948-49) LR 76 IA 67]*, the Privy Council observed the following:

"Section 115 empowers the High Court to satisfy itself on three matters, (a) that the order of the subordinate court is within its jurisdiction; (b) that the case is one in which the court ought to exercise jurisdiction and (c) that in exercising jurisdiction the court has not acted illegally, that is, in breach of some provision of law, or with material irregularity, that is, by committing some error of procedure in the course of the trial



which is material in that it may have affected the ultimate decision. And if the High Court is satisfied on those three matters, it has no power to interfere because it differs from the conclusions of the subordinate court on questions of fact or law.”

30. The above quoted observations made by the Privy Council have been approved and affirmed by the Hon’ble Supreme Court and this Court in a number of cases such as cases titled ***Manindra Land and Building Corporation Ltd. v. Bhutnath Banerjee***, (1964) 3 SCR 495], ***Vora Abbasbhai Alimahomed v. Haji Gulamnabi Haji Safibhai***, (1964) 5 SCR 157] and ***D.L.F. Housing & Construction Company Private Ltd., New Delhi v. Sarup Singh***, (1969) 3 SCC 807. The settled law is that there is a distinction between the errors committed by subordinate courts in deciding questions of law which have relation to, or are concerned with, questions of jurisdiction of the said court, and errors of law which have no such relation or connection.

31. Similarly, in case titled as ***Pandurang Dhondi Chougute v. Maruti Hari Jadhav***, (1966) 1 SCR 102, this Court held as follows:

“The provisions of Section 115 of the Code have been examined by judicial decisions on several occasions. While exercising its jurisdiction under Section 115, it is not competent to the High Court to correct errors of fact however gross they may be, or even errors of law, unless the said errors have relation to the jurisdiction of the Court to try the dispute itself. As clauses (a), (b) and (c) of Section 115 indicate, it is only in cases where the subordinate court has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so



vested or has acted in the exercise of its jurisdiction illegally or with material irregularity that the revisional jurisdiction of the High Court can be properly invoked. It is conceivable that points of law may arise in proceedings instituted before subordinate courts which are related to questions of jurisdiction. It is well settled that a plea of limitation or a plea of jurisdiction is a plea of law which concerns the jurisdiction of the court which tries the proceedings. A finding on those pleas in favour of the party raising them would oust the jurisdiction of the court and so, an erroneous decision on these pleas can be said to be concerned with questions of jurisdiction which fall within the purview of Section 115 of the Code. But an erroneous decision on a question of law reached by the subordinate court which has no relation to questions of jurisdiction of that court cannot be corrected by the High Court under Section 115.

32. The scope and extent of the revisional powers of this Court has been discussed in depth in the foregoing paragraphs. Before proceeding to test the legality of the impugned order, it would be appropriate to refer to the nature, scope and object of the law settled by the Courts with regards to Order VI Rule 17 of the CPC. At this juncture it is relevant to discuss the proviso of Order VI Rule 17 of the CPC, which is reproduced as under:

"Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial".

33. This Court is of the view that where the amendments are sought for a mere purpose of clarifying the averments which are pre-existing in the plaint, the same has to be allowed except when it is sought to make a new



addition and for that purpose the law as laid down that it is the duty of the Court to arrive at a conclusion by reading the entire plaint as a whole. The said principle has been stated by the Hon'ble Supreme Court in a catena of judgments and reaffirmed in the judgment passed in ***B.K. Narayana Pillai v. Parameswaran Pillai*, (2000) 1 SCC 712.**

34. The aforesaid power of the Court, however, is subject to a rider put by proviso to Order VI Rule 17 of the CPC, which provides that no application for amendment should be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter for which amendment is sought, before the commencement of the trial. In ***Salem Advocate Bar Association, Tamil Nadu V. Union of India & Ors.*, (2005) 6 SCC 344**, the Hon'ble Supreme Court has held that the object of adding the proviso is to prevent frivolous applications which are filed to delay the trial.

35. The purpose of Order VI Rule 17 of the CPC, is that all the substantial facts and necessary particulars must be stated in the pleadings. The object of the rule states that the Court should evaluate all the merits of the matter presented before it and therefore, consider allowing such vital amendments to accurately determine the primary issue in dispute between the parties in question.

36. Ultimately, the duty of the Courts is to administer justice between the parties involved, rather than to inflict punishment upon them. The Courts are



empowered to allow amendments or modifications to the pleadings, in order to serve the broad objective of ensuring comprehensive adjudication for all the parties. The provision of Order VI Rule 17 of the CPC, serves the purpose of advancing the objectives of justice rather than defeating them.

37. The Hon'ble Supreme Court in ***Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil***, 1957 SCR 595, discussed the tests laid down for allowing amendment of a plaint and observed as under:

*“10. Learned counsel for the appellant referred us to the decision in **Kisandas Rupchand v. Rachappa Vithoba** [(1900) ILR 33 Bom 644, 655] and placed great reliance on the observations of Beaman, J. at p. 655:*

“In my opinion, two simple tests, and two only, need to be applied, in order to ascertain whether a given case is within the principle. First, could the party asking to amend obtain the same quantity of relief without the amendment? If not, then it follows necessarily that the proposed amendment places the other party at a disadvantage, it allows his opponent to obtain more from him than he would have been able to obtain but for the amendment. Second, in those circumstances, can the party thus placed at a disadvantage be compensated for it by costs? If not, then the amendment ought not, unless the case is so peculiar as to be taken out of the scope of the rule, to be allowed.”

38. It is deliberated that such amendments of pleadings ought to be allowed provided it satisfies two conditions, *firstly*, no injustice to be caused to the other side and *secondly*, the amendments are necessary for the purpose of determining the real issue in dispute between the parties. It further held



that amendments are to be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in terms of costs. These are the broad principles to be kept in mind while dealing with an application under Order VI Rule 17 of the CPC.

39. Further, in the judgment of *State of M.P. v. Union of India*, (2011) 12 SCC 268, the Hon'ble Supreme Court reiterated the scope and extent of exercising the powers under the abovesaid provision, and observed as follows:

“10. This Court, while considering Order 6 Rule 17 of the Code, in several judgments has laid down the principles to be applicable in the case of amendment of plaint which are as follows:

(i) Surender Kumar Sharma v. Makhan Singh [(2009) 10 SCC 626 : (2009) 4 SCC (Civ) 294] , at para 5 : (SCC p. 627)

“5. As noted herein earlier, the prayer for amendment was refused by the High Court on two grounds. So far as the first ground is concerned i.e. the prayer for amendment was a belated one, we are of the view that even if it was belated, then also, the question that needs to be decided is to see whether by allowing the amendment, the real controversy between the parties may be resolved. It is well settled that under Order 6 Rule 17 of the Code of Civil Procedure, wide powers and unfettered discretion have been conferred on the court to allow amendment of the pleadings to a party in such a manner and on such terms as it appears to the court just and proper. Even if, such an application for amendment



of the plaint was filed belatedly, such belated amendment cannot be refused if it is found that for deciding the real controversy between the parties, it can be allowed on payment of costs. Therefore, in our view, mere delay and laches in making the application for amendment cannot be a ground to refuse the amendment.”

(ii) North Eastern Railway Admn. v. Bhagwan Das [(2008) 8 SCC 511], at para 16:

“16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363] which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other side; and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs.”

(iii) Usha Devi v. Rijwan Ahamd [(2008) 3 SCC 717 : (2008) 1 SCC (Civ) 922], at para 13 : (SCC p. 722)

“13. Mr Bharuka, on the other hand, invited our attention to another decision of this Court in Baldev Singh v. Manohar Singh [(2006) 6 SCC 498] . In para 17 of the decision, it was held and observed as follows : (SCC pp. 504-05)

‘17. Before we part with this order, we may also notice that



proviso to Order 6 Rule 17 CPC provides that amendment of pleadings shall not be allowed when the trial of the suit has already commenced. For this reason, we have examined the records and find that, in fact, the trial has not yet commenced. It appears from the records that the parties have yet to file their documentary evidence in the suit. From the record, it also appears that the suit was not on the verge of conclusion as found by the High Court and the trial court. That apart, commencement of trial as used in proviso to Order 6 Rule 17 in the Code of Civil Procedure must be understood in the limited sense as meaning the final hearing of the suit, examination of witnesses, filing of documents and addressing of arguments. As noted hereinbefore, parties are yet to file their documents, we do not find any reason to reject the application for amendment of the written statement in view of proviso to Order 6 Rule 17 CPC which confers wide power and unfettered discretion on the court to allow an amendment of the written statement at any stage of the proceedings. ’’

(iv) Rajesh Kumar Aggarwal v. K.K. Modi [(2006) 4 SCC 385], at paras 15 & 16 : (SCC pp. 392-93)

“15. The object of the rule is that the courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.”

(v) Revajeetu Builders and Developers v. Narayanaswamy and Sons [(2009) 10 SCC 84 : (2009) 4 SCC (Civ) 37], at para 63 : (SCC p. 102)

“63. On critically analysing both the English and Indian cases, some basic principles emerge which ought to be



taken into consideration while allowing or rejecting the application for amendment:

(1) whether the amendment sought is imperative for proper and effective adjudication of the case;

(2) whether the application for amendment is bona fide or mala fide;

(3) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and

(6) as a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17. These are only illustrative and not exhaustive...”

40. Order VI Rule 17 of the CPC, consists of two parts, wherein, the first part is discretionary (may) and leaves it to the Court to order amendment of the pleading. The second part is imperative (shall) and enjoins the Court to allow all the amendments which are necessary for the purpose of determining the real question in controversy between the parties.

41. The above stated principles make it clear that the Courts have ample



power to allow an application for amendment of the plaint. However, they must be satisfied that the same is required in the interest of justice and for the purpose of determining the real question in controversy between the parties.

42. Now advertent to the facts of the instant petition. The petitioner has filed certain documents alleging that the suit property is the land of Gram Sabha and is neither ancestral property nor self-acquired property of the great-grandfather of the parties. It is further contended by the petitioner that the great-grandfather of the petitioner's husband and the respondent were residing in the suit property by way of adverse possession. Therefore, there is no sole ownership of either party to the suit property.

43. The petitioner has also annexed a copy of 'Fard' in the name of late Sh. Maan Singh, copy of water bill of the suit property in the name of late Sh. Maan Singh, Copy of Aadhar Card with the address of the suit property, Ration Card with the address of the suit property, Gas connection with the address of the suit property, as well as the bank passbook with the address of the suit property.

44. This Court is *prima facie* of the view that the aforesaid amendments of pleadings satisfies twin conditions as laid down by the Court i.e., *firstly*, there is no injustice to be caused to the other since, the ownership of the suit property is an important fact which shall be disclosed before the Court and such a fact cannot cause any prejudice to any parties. *Secondly*, the



amendment is necessary for the purpose of determining the real issue in dispute between the parties since, the parties have a dispute with regard to the ownership of the property and the fact that the suit property is owned by the Gram Sabha is a fact which is a crucial for the learned Trial Court in adjudicating the matter between the parties.

45. This Court is of the opinion that if this Court allows the amendments, the other party will not be placed in the same position but the amendment would not cause him an injury which could not be compensated in terms of costs. Though there is a delay on the part of the petitioner in amending its plaint but such an amendment would amount to merely an irregularity and is such any injury which can be compensated by of cost to the respondent.

CONCLUSION

46. In view of the above discussion of facts and law for the purposes of adjudication of the instant revision petition, the petitioner has been able to make out a case that requires interference of this Court with the impugned order by way of exercising the revisional jurisdiction under Section 115 of the CPC.

47. This Court is of the view that there is merit in the propositions put forth by the petitioner and for the proper adjudication of the suit before the learned Trial Court, the amendment sought by the petitioner must be allowed in accordance with the law. It is held that the learned Court below erred in appreciating the facts of the application filed by the petitioner under Order



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VI Rule 17 of the CPC. Accordingly, this Court by way of instant revision petition directs the learned Trial Court to allow the amendment of the plaint.

48. In view of the above discussions of facts and law, this Court set aside the impugned order dated 25th February 2021, passed in CS No, 3263/2016, by the learned ADJ-01, East, Karkardooma Courts, Delhi, in case titled as ***“Raj Kumar Vs Manoj Kumar & Anr.”***

49. Accordingly, this petition is thus allowed and the learned Trial Court is directed to consider the amendment to the pleadings.

50. In view of the afore said observations, the present petition stands disposed of along with pending applications, if any.

51. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

DECEMBER 15, 2023
Dy/db/ds