



\$~44

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

+ **FAO(OS) 57/2024 & C.M.Nos.25721-25723/2024**

MANJU GAIND

..... Appellant

Through: Mr.Kunal Tandon with Ms.Niti Jain,
Ms.Aanchal Tandon, Mr.Ajay Gaind,
Mr.Abhay Gaind and Ms.Varnalee,
Advocates.

versus

KAMLA RANI & ORS.

..... Respondents

Through: Mr.Manish Vashisth, Sr.Advocate
with Mr.Ajay Tejpal, Mr.Tarun
Agarwal and Mr.Vanshy Kaul,
Advocates for R-1 to 5.
Mr.Vikram Nath with Mr.Riyal
Suryawanshi, Mr.Akshat Chaudhary
and Mr.Harshvardhan Jha, Advocates
for R-6.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

02.05.2024

1. Present appeal has been filed challenging the order dated 20th February, 2024 passed by the learned Single Judge in CS(OS) No.317/2018, whereby the appellant's application filed under Order XII Rule 6 CPC was disposed of as not pressed.

2. Learned counsel for the appellant states that the appellant had not pressed the said application at that stage as the learned Single Judge had allowed the respondents' application for amendment under Order VI Rule



17 CPC. He states that he has now challenged the order allowing the amendment application and in the event the said appeal being FAO(OS) 58/2024 is allowed, the appellant be given liberty to re-agitate his application under Order XII Rule 6 CPC.

3. A perusal of the impugned order reveals that the learned counsel for the appellant/plaintiff had informed the learned Single Judge that since the application filed by the respondents-defendants under Order VI Rule 17 CPC for amendment of the written statement had been allowed, the appellant/plaintiff *“does not wish to press the present application, at this stage”*.

4. Since the order allowing the application for amendment of the written statement is sub-judice in FAO(OS) No.58/2024, this Court disposes of the present appeal with liberty to the appellant to file a fresh application under Order XII Rule 6 CPC, in the event the appellant’s appeal being FAO(OS) 58/2024 is allowed by this Court.

5. With the aforesaid liberty, present appeal along with the application stands disposed of. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 2, 2024
KA