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

+ **FAO(OS) 139/2023 & CM APPL. 66736/2023**

YOGESH KUMAR

..... Appellant

Through: Mr. Aman Usman, Advocate

versus

DAVENDER KUMAR RELAN & ORS.

..... Respondents

Through: Mr. Himanshu Bajaj, Advocate

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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17.05.2024

1. Present appeal has been filed challenging the order dated 12th June, 2023 passed by the learned Single Judge in I.A. No. 11118/2020 (Application under Order VI Rule 16 read with Section 151 of CPC for striking out pleadings) in CS (OS) No. 252/2013, whereby the learned Single Judge dismissed the application filed by the Appellant herein.

2. Learned counsel for the Appellant (Plaintiff in the original suit) states that during the pendency of the suit, the Appellant was allowed to amend the plaint vide order dated 1st August, 2019 while allowing I.A. No. 10184/2019, wherein the amendments allowed by the Court were enumerated in paragraphs 40(A) to 40(I) of the amended plaint. He states that consequent to the amended plaint, the Respondents filed an amended written statement dated 4th December, 2019, wherein Respondents filed a fresh written statement incorporating new paragraphs and contents in place



of their previously filed written statement without seeking leave of the Court.

3. Learned counsel for the Appellant states that the unwarranted changes in the written statement are prejudicial to the Appellant as these are an afterthought.

4. *Per contra*, learned counsel for Respondent states that it is only the averments in response to the amended paragraphs i.e., 40(A) to 40(I) which have been reiterated in the other paragraphs of the written statement. He, however, states that without prejudice to the respondent's rights and contentions and with intent to avoid any delay in the disposal of the suit, he has no objection if the application being I.A. No. 11118/2020 filed by the Appellant is allowed to the extent of the prayers contained therein.

5. Consequently, without prejudice to the rights and contentions of Respondent, the impugned order is varied to the extent that I.A. No. 11118/2020 is allowed with consent of the Respondent. The Respondent is directed to file the amended written statement in accordance with the order passed today within six weeks.

6. Further, the learned Single Judge is directed to expedite the disposal of the suit.

7. Accordingly, the present appeal and pending application stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 17, 2024/rhc