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

% ***Date of decision: 20th September, 2024***

+ **CM(M) 3438/2024 & CM APPL. 55350/2024 & CM APPL. 55351/2024**

SHREE BALAJI LAMINATIONS

.....Petitioner

Through: Mr. Arun Baali, Advocate.

versus

SR GOYAL POLYMERS

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner is aggrieved by order dated 12th August, 2024 whereby the learned Trial Court has allowed the application moved by the plaintiff (respondent herein) under Order VI Rule 17 CPC and under Order I Rule 10 CPC.
2. The respondent-SR Goyal Polymers had filed a suit for recovery against Shree Balaji Laminations on the assumption that it was a sole proprietary concern of Mr. Naresh Aggarwal.
3. After summons were issued, Mr. Naresh Aggarwal, the alleged proprietor of Shree Balaji Laminations submitted written statement and, in all fairness, he also revealed in such written statement that he was not the proprietor and rather his wife Ms. Anjali Aggarwal was the actual proprietor of Shree Balaji Laminations.



4. In view of such facts mentioned in the written statement, the plaintiff immediately moved an application seeking amendment and also seeking impleadment of said Ms. Anjali Aggarwal.

5. The petitioner is aggrieved by the aforesaid order dated 12th August, 2024 whereby the amendment has been allowed and Ms. Anjali Aggarwal has been impleaded as one of the party, being proprietor of Shree Balaji Laminations.

6. Learned counsel for the petitioner, who continues to represent Mr. Naresh Aggarwal, states that the order is not justifiable as in such a situation, when the plaintiff had specifically averred in his original plaint that Mr. Naresh Aggarwal was a proprietor, he could not have changed the very nature of the suit.

7. However, such contentions is found to be misplaced as the amendment was imperative in view of the facts mentioned in the written statement filed by none other than Mr. Naresh Aggarwal. In such written statement, he very clearly and categorically claimed that his wife was proprietor of said concern and, therefore, even otherwise the plaintiff had no other option but to amend its suit and to implead the actual proprietor. It cannot be said that either the amendment was not permissible or it had changed the nature of suit.

8. Viewed thus, there is no illegality or perversity in the impugned order necessitating any interference under Article 227 of Constitution of India.

9. Petition is accordingly dismissed.

(MANOJ JAIN)
JUDGE

SEPTEMBER 20, 2024/ss