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

% ***Date of Decision: 21th October, 2024***

+ CM(M) 3657/2024 & CM APPL. 61606/2024 & CM APPL. 61607/2024

SANJAY SINGHANIA (DECEASED) THROUGH LRS.

.....Petitioner

Through: Mr. Vinod Khera, Advocate.

versus

MADHU VYAS

.....Respondent

Through: Mr. Harish Katyal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner is defending a Civil Suit which seeks eviction and recovery of rent with mesne profits and damages.
2. He is aggrieved by the order dated 9th September, 2024 whereby his application seeking amendment in the written statement has been dismissed.
3. The suit was instituted way back in the year 2018 and after framing of issues, the case is already at the stage of plaintiff's evidence.
4. It was only recently that application seeking amendment in the written statement was filed whereby it was claimed that while preparing cross-examination, it came to fore that the original defendant i.e. Sh. Sanjay Singhania has sent \$1500 equivalent to Rs. 107,250/- to the plaintiff on 31st July, 2018 and such fact was never incorporated in the written statement.
5. LR's of the defendant, who were brought on record at a later stage, learnt the same from the brother of the deceased defendant and, therefore, they



moved an application seeking incorporation of the same in the written statement.

6. Admittedly, initially the written statement was filed by none other than Sh. Sanjay Singhania himself. If Sh. Sanjay Singhania (since deceased) was of the view that such fact was very vital, there was no one to have prevented him, incorporating such fact in the written statement.

7. It is now too late in the day, more so when the case is already at the stage of trial. Thus, evidently the learned Trial Court was fully justified in dismissing the aforesaid application seeking amendment in the written statement.

8. It is, however, important to mention that the learned Trial Court has even observed in the impugned order that these facts, which are being sought to be added in the written statement, can always be put by the defendant to the plaintiff at the stage of cross-examination and viewed thus, even otherwise, there is no prejudice of any kind to the petitioner herein.

9. Since the discretionary power, while refusing the amendment, seems to have been exercised in a judicious manner, this Court while exercising supervisory power provided under Article 227 of Constitution of India does not find any reason to interfere with the above said order.

10. The present petition is, accordingly, disposed of.

(MANOJ JAIN)
JUDGE

OCTOBER 21, 2024/ss