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

% ***Date of Decision: 21st April, 2025***

+ **CM(M) 526/2025**

OM PRAKASH AND ORS

.....Petitioner

Through: Mr. Nikhil Choudhary, Advocate
(Through VC)

versus

KISHAN CHAND

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 22818/2025 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 526/2025 & CM APPL. 22753/2025

1. Present application has been moved seeking issuance of notice to the other side. The date stands preponed and the matter has been taken today itself.
2. This Court has gone through the impugned order dated 06.02.2025.
3. Admittedly, plaintiffs/petitioners had filed a civil suit seeking declaration and permanent injunction in the year 2013. Such suit was, eventually, dismissed by the learned Trial Court *vide* judgment dated 17.07.2015.
4. Such judgment and decree have been challenged by filing an appeal and such appeal (RCA SCJ No. 2/19) is pending adjudication before the learned First Appellate Court.
5. During pendency of the aforesaid appeal, plaintiffs/appellants moved



an application under Order VI Rule 17 r/w Section 151 CPC seeking amendment in the appeal as well as amendment in the plaint in order to place on record some subsequent events. According to them, a registered *Sale Deed* dated 01.06.2000 has been executed in favour of appellant no. 1 Om Prakash with respect to property in question and such subsequent development has altered the legal status of the suit property, thereby making the claim of the respondent untenable in law.

6. Such request has been declined by the learned First Appellate Court *vide* order dated 06.02.2025 while observing as under:-

“5. Allowing the amendment at this stage would substantially prejudice the respondents, as they have contested the suit based on the original pleadings and issues framed therein. The amendment would require fresh pleadings, additional evidence, and potential re-litigation of matters that were not originally part of the dispute. Such an exercise would not only delay the adjudication of the present appeal but also defeat the settled principles of procedural law.

6. For the reasons stated above, this Court finds that the amendment application lacks merit and is liable to be dismissed. The appellants cannot be permitted to change the fundamental nature of the litigation at this stage by introducing new claims based on a subsequent transaction. The appropriate remedy for the appellants, if any, lies in initiating separate proceedings concerning their ownership claim rather than seeking amendment in the present appeal. Thus, the application under Order VI Rule 17 CPC read with Section 151 CPC is dismissed with a cost of Rs. 2,000/- to be deposited with DLSA, South Saket.”

7. Such order is under challenge.

8. It is also important to mention that while dismissing the aforesaid application, learned First Appellate Court also observed that if the appellant claims himself to be the owner on the basis of some subsequently executed sale deed, the proper recourse for him would be to institute a fresh suit, rather than amending the existing pleadings.



9. However, when this Court went through the application moved under Order VI Rule 17 CPC, it came across one averment which, totally, deflates the case of the petitioner herein. In such application, petitioners/appellants have categorically averred in Para-5 that after the execution of aforesaid Sale Deed, *appellant no. 1 had become the owner of the suit property and the appellant no. 1 has already filed a civil suit in pursuance of registration of the said Sale Deed and the said suit is pending before the Hon'ble Court of Ms. Pooja Talwar, Addl. District Judge, Saket Court, New Delhi.*

10. Since a separate suit has already been instituted, based on such subsequent sale deed, even otherwise, there is no substance in the request made by the petitioner.

11. The appeal was filed in the year 2019 and is pending adjudication for quite some time and, therefore, this Court, noticing no merit in the present petition, does not want to keep this matter pending any further.

12. In view of the above, present petition is hereby dismissed.

13. Pending application, if any, also stands disposed of in aforesaid terms.

14. Next date i.e. 09.05.2025 stands cancelled.

(MANOJ JAIN)
JUDGE

APRIL 21, 2025/dr/js