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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.R.P. 251/2024 & CM APPL. 49667/2024

VIRENDER GARG (SINCE DECEASED)

THROUGH LRS.

.....Petitioner

Through: Mr. S.S.Dahiya, Advocate.

versus

BIMLA MANCHANDA

.....Respondent

Through: Mr. Nitesh Tyagi and Ms.
Priyanka Tyagi,
Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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03.03.2025

1. By present petition, the petitioner challenges the order dated 09.07.2024 passed by the learned District Judge-04 (North), Rohini Court, Delhi in CS No. 375/2022, pursuant to which the respondent/plaintiff was permitted to file amended memo of parties and the matter was adjourned for completion of pleadings.
2. The plaintiff had filed a suit for recovery of ₹5,00,000/- from the defendant along with *pendente lite* and future interest. It was pleaded in the plaint that the plaintiff had family relations with late Sh. Virender Garg – who had taken financial assistance of ₹5,00,000/- from the plaintiff. It was pleaded that Sh. Virender Garg expired on 02.05.2021, whereafter the plaintiff approached the family members of Sh. Virender Garg and informed them about the friendly loan given by the plaintiff. On their refusal to pay, the suit was filed.
3. An application under Order VII Rule 11 of the Code of Civil Procedure, 1908 was filed by the petitioner on the ground



that the suit was filed against a dead person and hence, was not maintainable. This led to the respondent also filing an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking amendment in the plaint.

4. The title of the plaint reads as under:

“BIMLA MANICIJANDAPlaintiff
versus
VIRENDER GARG, Since Deceased
Through LRs Defendants”

5. Though it appears that the suit was filed against a dead person, however, a perusal of the plaint makes it clear that the suit was filed against the wife and sons of late Sh. Virender Garg.

Paragraph 2 of the plaint reads as under:

“2. That Defendant No.1 is the wife of Late Shri Virender Garg and Defendant No. 2 and 3 are the sons of Late Shri Virender Garg, all residents of D-13, Rana Pratap Road, Adarsh Nagar, Delhi - 110033.”

6. The learned counsel who represents the respondent/plaintiff while drafting appears to have put a wrong nomenclature in the title of the plaint. The plaintiff did not dispute it in the plaint and had categorically pleaded that Sh. Virender Garg expired on 02.05.2021 and it is the family members who are arrayed as Defendants Nos.1 to 3, who on being demanded had refused to pay the money which was advanced to late Sh. Virender Garg.

7. In such circumstances, in the opinion of this Court even the application under Order VI Rule 17 of the Code of Civil Procedure, 1908 was not required to be filed since it appears to be only an inadvertent error which could have been corrected by a simplicitor application under Section 151 of the Code of Civil Procedure, 1908 and did not require any amendment in the plaint.

8. In view of the above, I find no merit in the present petition.



The petition is therefore dismissed. Pending application also stands disposed of.

AMIT MAHAJAN, J

MARCH 3, 2025/DV