



2025:DHC:9717



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

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Date of Decision: 06.11.2025+ **CM(M) 2105/2025 & CM APPL. 68903/2025**

FARHANA SAMI

.....Petitioner

Through: Ms. Mansi Sharma, Advocate

versus

DYNAMIK DEVELOPERS PVT LTD

.....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA**ORDER (ORAL)**

1. Petitioner/defendant has assailed order dated 23.09.2025 of the learned trial court, whereby her application for amendment of Written Statement was dismissed in view of bar under proviso to Order VI Rule 17 CPC.

2. It is contended on behalf of petitioner/defendant that being a home maker, she was dependent upon her husband for the transactions between the parties. It is further contended that when the Written Statement was filed, husband of the petitioner/defendant being in jail, she did not have knowledge of complete facts, therefore, could not plead as regards the payments already made by her to the respondent/plaintiff. It is only after her

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husband got released from jail that the petitioner/defendant came to know about the fact of payment of entire suit amount already done by her to the respondent/plaintiff. That being so, according to learned counsel for petitioner/defendant, the learned trial court fell in error in applying bar contemplated by proviso to Order VI Rule 17 CPC on her application for amendment of the Written Statement.

3. The provision under Order VI Rule 17 CPC, as brought in force by way of 2002 amendment of the Code clearly contemplates through its proviso that an application for amendment shall not be allowed once trial has commenced, unless the court comes to conclusion that in spite of due diligence, the applicant could not have raised the matter prior to the commencement of trial. What is to be seen in the present case is as to whether the petitioner/defendant could have, by exercise of due diligence, pleaded in the Written Statement originally filed or later, prior to commencement of trial that she had paid the entire outstanding amount to the respondent/plaintiff even prior to the filing of the suit.

4. In response to a specific query, learned counsel for petitioner/defendant submits that in the Written Statement, she never pleaded that she is a home maker and not aware about the transaction between the parties.

5. Learned trial court observed in the impugned order that the petitioner/defendant did not plead or place on record any document to show that at the time of filing the Written Statement, her husband was in jail.

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6. Assuming it to be a case where the petitioner/defendant had no knowledge about the transaction between the parties and assuming that it is her husband who was transacting on her behalf, it is the admitted case of petitioner/defendant that her husband was released from jail on 05.10.2024 and the trial commenced on 29.03.2025. There is not even a whisper to explain as to why during the period from 05.10.2024 till 29.03.2025, the petitioner/defendant did not obtain complete particulars from her husband. The only inference is that there was complete lack of diligence on the part of petitioner/defendant in seeking permission to amend the Written Statement. That being so, the learned trial court was correct in taking the view that the amendment application was hit by proviso to Order VI Rule 17 CPC.

7. I am unable to find any infirmity in the impugned order, so the same is upheld. The petition and the accompanying application are dismissed.

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**GIRISH KATHPALIA
(JUDGE)**

NOVEMBER 6, 2025/as

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