



\$~62

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CM(M) 4149/2024**  
**VSAY FOODS LLP & ORS.** .....Petitioners  
Through: Mr. Rohit Oberoi, Mr. Parameet &  
Ms. Umang Bhatia, Advs.  
versus  
**SURAJ PARKASH WAHI (SINCE DECEASED) THROUGH LRS.**  
**AND ORS.** .....Respondents  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**ORDER**  
% **10.01.2025**

**CM APPL. 75307/2024 (Exemption)**

Allowed, subject to all just exceptions.

Application stands disposed of.

**CM(M) 4149/2024 & CM APPL. 75308/2024 (Stay)**

1. The petitioner impugns the order dated 26.09.2024 passed by learned District Judge (West), Tis Hazari Courts, Delhi in Civil Suit No. 242/2020, titled as "*Suraj Parkash Wahi Versus Vsay Foods LLP*" by which the application filed by petitioner under Order 17 Rule 10 CPC has been dismissed.
2. Respondent filed a suit for recovery of rent and other charges.
3. The petitioners filed written statement alongwith application under Order VII Rule 11 (d) stating that dispute in the case was the commercial dispute within ambit under Section 2 (1) (c) (vii) of The Commercial Courts Act, 2015. However, the learned Trial Court did not accept the contentions of the petitioners and dismissed the application vide order dated 28.09.2020.



4. In the meanwhile, on an application filed by respondents under Order VI Rule 17 CPC the plaint was amended.
5. The petitioners thereafter filed an application under Order VII Rule 10 CPC for return of the plaint on the same ground on which the previous application under Order VII Rule 11 CPC had already been dismissed.
6. Taking note of the same, the learned Trial Court vide impugned order dated 26.09.2024 dismissed the application under Order VII Rule 10 CPC.
7. Learned counsel submits that fresh cause of action has arisen after the amendment of the plaint for filing an application under Order VII Rule 10 CPC, it is again reiterated that dispute involved in the present case is a Commercial dispute which cannot be continued before an ordinary Civil Court and therefore, plaint is liable to be returned.
8. Admittedly, the plea of the petitioners that it was a Commercial dispute had already been rejected once by the learned Trial Court. Undisputedly, the said order has not been challenged and has therefore attained finality.
9. The second application filed under Order VII Rule 10 CPC on the same ground obviously is not maintainable. Merely because the plaint has been amended shall not raise any fresh cause of action for filing the application under Order VII Rule 10 CPC on the same ground, in as much as, the amendment of the plaint does not change the nature of the suit.
10. I find no illegality or impropriety in the impugned order passed by the learned Trial Court. The petition is therefore dismissed.

**RAVINDER DUDEJA, J**

**JANUARY 10, 2025/sk**