



2026:DHC:4599



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

Reserved on: 19th May, 2026
Date of Decision: 22nd May, 2026

+ CM(M) 59/2026 & CM APPL. 1664/2026

M/S FATEHPURIA FABRICS PVT. LTDPetitioner
Through: Mr. N.P. Singh and Mr. Barun Dey,
Advocates.

versus

M/S.OMSONS MARKETING PVT. LTDRespondent
Through: Ms. Akshita Sharma, Advocate
(through VC).

CORAM:
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

1. The present petition has been filed on behalf of the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 16th December, 2025 (herein after referred to as the '*Impugned Order*') passed by the learned Trial Court in CS (Comm) No. 709/2024, whereby the application filed by the petitioner/defendant No.1 under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as the '*CPC*') seeking to amend the written statement has been dismissed.
2. I have heard the learned counsel for the parties and perused the record.
3. Learned counsel for the petitioner has argued that the trial court has passed the impugned order on the basis of surmises and conjectures and in a mechanical manner which is against the facts and the law. The proposed



amendments are necessary for proper adjudication of the dispute between the parties. As there is no inordinate delay in filing the application. So, no prejudice would be caused to the respondent if the amendments are allowed.

4. *Per Contra*, learned counsel for the respondent has argued that the trial court has dismissed the application with a reasoned order after considering the material on record. The petition is liable to be dismissed as it is without any merits and has been filed only to delay the proceedings of the case.

5. It is apposite to refer to the relevant statutory provision, that is Order VI Rule 17 of the CPC, which is reproduced as under:

“17. Amendment of pleadings: *The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

The Hon’ble Supreme Court in ***Basavaraj vs Indira & Ors, (2024) 3 SCC 705***, held as under:

“10. The proviso to Order 6 Rule 17 CPC provides that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. In the case in hand, this is not even the pleaded case of Respondents 1 and 2 before the trial court in the application for amendment that due diligence was there at the time of filing of the suit in not seeking relief prayed for by way of amendment. All what was



pleaded was oversight. The same cannot be accepted as a ground to allow any amendment in the pleadings at the fag end of the trial especially when admittedly the facts were in knowledge of Respondents 1 and 2-plaintiffs.”

6. The relevant portion of the impugned order dated 16th December, 2025 is reproduced as under:

“... In the case in hand which is a Recovery Suit, the defendant stood served as on 22.12.2024 and the WS was filed (by way of e.filing) as on 20.02.2025 and physical copy thereof on 28.02.2025. Issues were framed as on 08.08.2025 and it is at the stage of evidence that the application seeking amendment in the WS has been filed. Not only it has been filed belatedly without any reasons for the delay, but also that there is nothing such in the entire contents of the application in hand as to whether and in what mode anything new came to the knowledge of the defendant which was not supposedly in the knowledge of the party concerned. It is a very vaguely drafted application and apparently has been moved simply to create ambiguities and to cause delay. The same is accordingly disposed of as dismissed. ...”

7. In the application, it is submitted that these proposed amendments are only to provide the actual understanding between the parties which relates to the details of special discounts and visibility fee payable by the respondent to the petitioner and therefore, necessary for just adjudication of the suit. These proposed amendments are only explanatory to the facts which were already alleged in the written statement and have inadvertently not been addressed in the written statement due to the complexity of the commercial transactions.

8. Admittedly, the application for amendment has been moved after the trial of the suit has commenced. The facts on the basis of which the amendments are sought were well within the knowledge of the petitioner at the time of the filing of the written statement. No cogent reasons have been



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assigned in the application for not taking these facts on record at the time when the written statement was filed. Accordingly, this court is of the opinion that the petitioner failed to exercise due diligence, as the amendment sought could have been raised prior to the commencement of the trial, and so, the application for amendment is barred under the proviso to Order VI Rule 17 of the CPC.

9. Keeping in view the aforesaid discussion, this court does not find any illegality in the impugned order as it is a reasoned order passed in accordance with law and the same is upheld. Accordingly, the present petition stands dismissed as being devoid of any merits. Pending application(s), if any, also stands disposed of.

RAJNEESH KUMAR GUPTA
JUDGE

MAY 22, 2026/isk