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

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Date of Decision: 18.12.2025

+ **CM(M) 2436/2025, CM APPL. 79842/2025, CM APPL. 79843/2025 & CM APPL. 79841/2025**

RINAL INVESTMENT PVT. LTD

.....Petitioner

Through: Mr. N.P. Singh and Mr. Barun Dey,
Advocates

versus

M/S OMSONS MARKETING PVT. LTD

.....Respondent

Through: Mr. Irshad Ahmad, Advocate

CORAM: JUSTICE GIRISH KATHPALIA

ORDER (ORAL)

1. Petitioner/defendant has assailed two orders, both dated 05.12.2025 passed by the learned commercial court, whereby its applications under Order VI Rule 17 CPC and under Order XI Rule 1(10) CPC were dismissed. Having heard learned counsel for petitioner/defendant, I do not find it a fit case to even issue notice. Rather, the petition appears to be an effort to somehow derail the trial.

2. Broadly speaking, when the suit filed by the respondent/plaintiff against the petitioner/defendant for recovery of Rs.17,51,499.38 was listed for plaintiff's evidence, the petitioner/defendant filed two applications, one



being under Order VI Rule 17 CPC, while the other being under Order XI Rule 1(10) CPC, both of which were dismissed by way of two separate orders on the same day, which orders have been impugned in this petition.

3. It is contended on behalf of petitioner/defendant that they learned about certain understandings between the parties, though reflected in the statement of accounts of the petitioner/defendant, but the same have inadvertently not been mentioned in the written statement, so the petitioner/defendant seeks to amend the written statement by adding paragraphs 5A to 5G in preliminary submissions of the written statement. It is also contended on behalf of petitioner/defendant that the amendments sought are only explanatory in nature. Correspondingly, the petitioner/defendant also wants to file additional documents pertaining to the proposed amendments, in case the amendments are allowed.

4. Learned counsel for petitioner/defendant has taken me through the paragraphs 5A to 5G, which are sought to be inserted in the written statement by way of amendment. It is contended on behalf of petitioner/defendant that since trial is yet to commence, proviso to Order VI Rule 17 CPC does not come into play, so the amendments must be allowed liberally. Further, learned counsel for petitioner/defendant contends that the amendments sought are only explanatory in nature, so ought to be allowed.

5. I am in agreement with learned counsel for petitioner/defendant that since trial is yet to commence, the rigours of the proviso under Order VI Rule 17 CPC shall not come into play. But at the same time, the stage at



which an amendment application is brought cannot be altogether ignored. For, that would indicate the genuineness or lack thereof on the part of a party seeking amendment. In the present case, as mentioned above, the amendment application was brought on the day when trial was scheduled to begin. Of course, solely on this aspect also, the lack of genuineness cannot be inferred. What would be seen at this stage is as to whether the amendments sought are of such vital nature, which the petitioner/defendant genuinely missed to plead in the written statement. The replication has already been filed. Merely by labelling the proposed amendments as only explanatory one, the party seeking amendment cannot be allowed to derail the trial when the same is scheduled to commence. And this is irrespective of coming into play of proviso to Order VI Rule 17 CPC. Besides, the very stand taken in the present case on behalf of the petitioner/defendant that the amendments sought are only explanatory in nature, the learned trial court has rightly observed that there is no necessity to allow such amendments at such stage. If the amendments sought are only explanatory and not vital, this would also indicate the intention of the petitioner/defendant to somehow derail the trial. For, once such amendments are allowed, the respondent/plaintiff would be called upon to file replication to the amended written statement, which may or may not follow amendments in the issues. Such protraction of proceedings would militate against the basic purpose of enacting the Commercial Courts Act.

6. Further, a perusal of paragraphs 5A to 5G sought to be inserted by way of amendments would reflect that the petitioner/defendant wants to add



fresh factual matrix to its defence in order to establish the alleged differential treatment given by the respondent/plaintiff to other retailers, which would not be relevant to the subject suit, in view of specific pleadings between the parties. The suit between the parties is clearly based upon their *inter se* transactions, with no impact of the business dealings between the respondent/plaintiff and third parties. That being so, the amendments sought are not even relevant for the effective disposal of the suit.

7. Furthermore, in paragraph 5G, proposed to be inserted in the written statement, the petitioner/defendant is even trying to raise an independent claim against the respondent/plaintiff, for which there were no foundational pleadings in the written statement originally filed.

8. The principle that the amendments of the pleadings should be liberally allowed cannot be read *de hors* the basic principle underlying the enactment of the Commercial Courts Act, which was to ensure expeditious disposal of commercial suits. While dealing with an amendment application in a commercial suit, the said principle of allowing the amendments liberally has to be construed in the light of remaining circumstances as well, namely, the nature of amendments sought, the relevance of those amendments, the stage when the amendments are sought, and the reason behind failure to plead the proposed facts in the originally filed pleadings.

9. Since the proposed amendments have been rightly denied to the petitioner/defendant, as a natural consequence, the other impugned order, whereby application under Order XI Rule 1(10) CPC was dismissed also



cannot be faulted with. For, the additional documents sought to be filed by way of the said other application were pertaining to the documents required to prove the proposed amendments and the learned trial court in detailed order took a clear view that the said additional documents do not pertain to any transaction *inter se* between parties to the subject suit and that the petitioner/defendant failed to advance any cogent reason for non-disclosure of those documents at the stage of filing the written statement.

10. Therefore, I am unable to find any infirmity, much less perversity in either of the impugned orders that would call for interference under Article 227 of the Constitution of India. Both the impugned orders are upheld. The petition and the accompanying applications are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

DECEMBER 18, 2025
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