2026:DHC:8011

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

Reserved on: 07.09.2026
Date of Decision: 18.09.2026
Date of Uploading: 18.09.2026

\# **CNR No. DLHC010462782024**

\+ CM(M) 3094/2024 & CM APPL. 43964/2024

M/S HOLISTICC CONSTRUCTION PVT LTD .....Petitioner

Through: Mr. L. B. Rai, Mr. Satvik Rai and Mr. Kartik Rai, Advs.

versus

M/S FLORITECH BUILDCON PVT LTD .....Respondent

Through: Mr. Rishi Sood, Adv.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT

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1. Through the present petition, the petitioner/defendant no. 1 is impugning the order dated 08.07.2024 in CS (COMM) No. 88/2021 titled *"M/s Floritech Buildcon v. M/s Holistic Constructions Pvt. Ltd. And Ors."* passed by the learned District Judge (Commercial -01) (South) Saket Courts, New Delhi[1] whereby the learned Trial Court dismissed the application moved by the petitioner under Order VI Rule 17 of the Code of Civil Procedure, 1908[2].

2. The facts, shorn of unnecessary detail, as necessary for disposal of the

[1] Hereinafter 'Trial Court'

present petition are that the respondent/plaintiff purportedly supplied Kota stone, Granite, and Sandstone to the petitioner, for which the due payment is alleged to not have been tendered.

3. Seeking to recover the due amount, the respondent served a legal notice dated 17.03.2020 to the petitioner and on 29.08.2020, the respondent filed an application for pre-litigation mediation before the South District Legal Services Authority whereby a Non- Starter Report *vide* reference no. 187 /08/Med/South/DLSA/2020/1133-1134 was issued.

4. Pursuant thereto, in 2021 the respondent instituted the underlying suit seeking recovery of Rs. 17,42,216/- with *pendente lite* and future interest computed from the date of notice i.e., 17.03.2020 till its realization @ 24% per annum, along with cost of the suit.

5. After the issuance of summons, on 26.07.2021 the petitioner placed its written statement on record, whereby it was categorically stated that there is no amount payable by the petitioner to the respondent.

6. During the pendency of the proceedings, the respondent preferred an application under Order VII Rule 14 (3) read with Section 151 of the CPC, but the same was not pressed. Another application under Order XI Rule 1 of the CPC was moved on behalf of the respondent seeking to place on record additional documents which came to be allowed by the learned Trial Court *vide* order dated 23.02.2023.

7. At the next date of hearing, the learned counsel for the respondent raised certain objections *qua* the written statement filed by the petitioner. It was submitted that the written statement was not accompanied with the statement of truth, any Board Resolution that authorised Mr. Thakur Ratish Mahesh to represent the petitioner etc.. In view thereof, the learned Trial

[2] Hereinafter 'CPC'

Court *vide* the order dated 17.05.2023, granted the petitioner an adjournment to rectify the said errors subject to cost of Rs. 10,000/-.

8. Consequently, the petitioner rectified the errors and placed the necessary documents on record while citing inadvertence for failure to file the same initially. Meanwhile, the respondent moved an application under Order XIII A read with Section 151 of the CPC seeking summary judgment. The petitioner duly responded to the said application and moved an additional application under Order VII Rule 11 read with Section 151 of the CPC.

9. After hearing the parties and perusing the record, the learned Trial Court *vide* order dated 19.01.2024 dismissed the application of the petitioner under Order VII Rule 11 read with Section 151 of the CPC and listed the matter for arguments on the application of the respondent under Order XIII A read with Section 151 of the CPC.

10. Simultaneously, on 05.02.2024 the petitioner moved an application under Order VI Rule 17 of the CPC seeking to include the fact that the petitioner issued only three purchase orders whereas the respondent filed invoices for a value exceeding the cumulative amount of such purchase orders.

11. The learned Trial Court *vide* the impugned order dated 08.07.2024 dismissed both the application of the petitioner under Order VI Rule 17 of the CPC as the well as the application of the respondent seeking summary judgment under Order XIII A read with Section 151 of the CPC.

12. Through the impugned order the learned Trial Court also framed issues namely, *"(1) Whether the plaintiff is entitled for recovery of the suit amount, as claimed? OPP"* and *"(2) Relief"* and put up the matter for Plaintiff's evidence on 05.08.2024 and for Defendant's evidence on 20.08.2024. The observations made by the learned Trial Court while dismissing the application of the petitioner read thus:

> "3. Invoices and purchase orders referred in the application seeking amendment are pertaining to year 2016. Query was made to Ld. Counsel for defendant as to how these facts came to the notice lateron when the invoices or the purchase orders are bearing the date of year 2016. It is submitted by Ld. Counsel for defendant that when the documents were being scrutinized, then this fact was noted.
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> 4. Ld. Counsel for defendant has also placed reliance upon Rajesh Kumar Aggarwal & Ors. Vs. K.K. Modi and Others (2006) 4 Supreme Court Cases 385, wherein it was noted that the object of rule is that the courts should try the merits of the case that come before them and should, consequently, allow all amendment that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.
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> 5. In the said judgment, it was also noted that such amendment should be necessary for the purpose of determining the real question in controversy between the parties. However, no application for amendment should be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of the due dilligence, the party could not have raised the matter for which amendment is sought before the commencement of the trial.
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> 6. In t**he instant matter, defendant has categorically denied about the existence of purchase orders and the invoices and also denied the same in the Affidavit of Admission/Denial of documents.** By way of amendment application, defendant now seeks to alter the said defence, which is not permissible under application under Order 6 Rule 17 CPC. Besides that, the amendment sought is not based upon any new facts which were not in knowledge of the defendant earlier. Application accordingly stands dismissed."

13. Aggrieved by the dismissal of its application seeking amendment, the petitioner herein approached this Court through the present petition. This Court *vide* order dated 02.08.2024 declined to stay the underlying proceedings but directed the learned Trial Court to not dispose of the matter finally.

14. Thereafter, the Plaintiff's evidence stood concluded on 30.04.2025, the Defendant's evidence stood concluded on 13.08.2025 and the matter is now standing at the stage of final arguments.

15. Mr. L.B. Rai, the learned counsel appearing for the petitioner, submits that when the subject application was filed, neither the trial had commenced nor had any evidence been tendered and therefore, no prejudice would have been caused to the respondent had the application been allowed. It is further submitted that the petitioner did not seek to introduce new facts, fill lacunae, or delay the proceedings and that the proposed amendment was essential to crystallize the core issue pertaining to the exact number of purchase orders issued.

16. To fortify his contentions, Mr. Rai places reliance on the decision of the Hon'ble Apex Court in ***Rajesh Kumar Aggarwal v. K.K. Modi***[3] to contend that all amendments which are necessary to determine the real question in controversy between the parties, should be allowed, provided that no prejudice is caused to the opposite party. Additional reliance is placed on the decision of this Court in ***Time Warner Entertainment Co., LP. v. A.K. Das***[4] to contend that amendments can be permitted notwithstanding delay and laches, if the same is necessary to do complete justice.

17. *Per Contra*, Mr. Rishi Sood, the learned counsel for the respondent submits that the petitioner having categorically denied any transactions, purchase orders, and invoices in its written statement as well as in its affidavit of admission/denial, cannot now turn around to admit the purchase orders and introduce a contradictory defence. It is further submitted that the subject amendment application of the petitioner is bereft of any reasonable cause to explain as to why the defence sought to be introduced through the application was omitted at the time of filing the initial written statement.

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[3] **(2006) 4 SCC 385**
[4] **2002 SCC OnLine Del 1421**

18. Heard. Perused the record.

19. The primary grievance of the petitioner is that the learned Trial Court adopted a hyper-technical approach in dismissing its application under Order VI Rule 17 of the CPC, as that the proposed amendment was essential to adjudicate the real controversy between the parties and the trial not yet commenced.

20. A bare perusal of the original written statement dated 26.07.2021, specifically of paragraphs 4, 5, and 6, demonstrates that the petitioner unequivocally denied any payment due to the respondent and receipt of any tax invoices. Further perusal of the petitioner's affidavit of admission/denial of documents makes it clear that the petitioner denied the existence of any purchase orders as well. Relevant paragraphs of the written statement are reproduced hereunder for ready reference:

> "4. That the contents of Para No.4 of the Plaint are wrong and denied. It is denied that the Plaintiff has completed delivery of the order of items which are allegedly placed by the Plaintiff upon Defendant. Rest of the contents of para under reply are wrong and denied.
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> 5.That the contents of Para No.5 of the Plaint are wrong and denied. It is denied that Plaintiff has ever issued Tax invoices to the Defendant and the same was not cleared by the Defendant. It is submitted that no amount is payable by the Defendant to the Plaintiff, so there is no question of issuing Tax invoices by the Plaintiff upon Defendant. Rest of the contents of para under reply are wrong and denied.
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> 6. That the contents of Para No.6 of the Plaint are wrong and denied. It is denied that the amount of Rs. 17,42,216/- (Rupees Seventeen Lakhs Forty Two Thousand Two Hundred and Sixteen only) is due and payable by Defendant to Plaintiff. Since no amount is payable by Defendant, so there is no question of issuing any Tax invoices by Plaintiff upon Defendant. Rest of the contents of para under reply are wrong and denied."

21. However, by way of the proposed amendment, the petitioner sought to incorporate one more paragraph, as paragraph 18, in the written statement to plead that it had, in fact, issued three purchase orders totalling Rs.43,36,162/-, two dated 21.12.2015 and one dated 27.01.2016. On this foundation, the petitioner sought to contend that there was no occasion for the respondent to issue invoices upon the petitioner for Rs. 76,20,362/-. An excerpt from the proposed amendment reads thus:

> "That the defendants have issued only three purchase orders to the plaintiff being two purchase orders dated 21.12.2015 and third purchase order dated 27.01.2016 total for Rs. 43,36,162/-. The details of purchase orders are as under:-
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> XXXXXX
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> The Plaintiffs have filed invoices on record for Rs. 76,20,362/-. Since purchase orders are issued only for Rs. 43,36,162/ so there is no occasion for the plaintiff to issue invoices upon defendant for Rs. 76,20,362/-."

22. It is thus evident that by way of the proposed amendment, the petitioner did not elaborate upon or clarify an existing stand taken in its written statement, but rather, sought to completely retract its categorical denial of purchase orders and tax invoices made *via* the original written statement and affidavit of admission/denial, in an attempt to set up a new factual case.

23. Furthermore, the only justification proffered by the petitioner for seeking the proposed amendment after a delay of three years is that the purchase orders came to its knowledge only at a later stage. This explanation is wholly unconvincing as firstly, it is not reasonable for a corporate entity to remain oblivious to its own purchase orders at the time of drafting its written statement and secondly, inadvertence in verifying one's own records cannot be considered by the Court to grant the relief of amendment. The explanation mentioned by the petitioner in the subject application dated 05.02.2024 is reproduced hereunder for ready reference:

"2. That the defendants have filed their written statement but some very relevant facts has come to the knowledge of the defendants recently *which* defendants wants to incorporate in their written statement by way of amendment."

24. It is no longer *res integra* that a party cannot alter and amend its pleadings to the effect of resiling from its original stance. While a party is permitted to take alternate pleas, such pleas cannot be mutually destructive of each other. At this juncture, it is pertinent to emphasize upon the principle laid down by the Hon'ble Apex Court in ***Gautam Sarup v. Leela Jetly***[5] which reads as follows:

"**28.** What, therefore, emerges from the discussions made hereinbefore is that a categorical admission cannot be resiled from but, in a given case, it may be explained or clarified. Offering explanation in regard to an admission or explaining away the same, however, would depend upon the nature and character thereof. It may be that a defendant is entitled to take an alternative plea. Such alternative pleas, however, cannot be mutually destructive of each other."

25. It is settled that courts must adopt a liberal approach while considering an application for amendment; however, such liberty is not absolute. The grant of an amendment is discretionary and cannot be claimed as a matter of right or entitlement. Consequently, the petitioner herein cannot seek indulgence to introduce an amendment that is essentially an afterthought, seeking to resile from a stance previously taken.

26. Importantly, reliance placed by learned counsel for the petitioner on *Rajesh Kumar Aggarwal (supra)* and *Time Warner Entertainment Co., LP. (supra)* is misplaced and does not advance its case. In the former case, the amendment was necessary owing to subsequent events which arose during the pendency of the suit and resulted in a mere alteration of the relief claimed.

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[5] **(2008) 7 SCC 85**

Whereas, in the latter case, amendment was sought due to a subsequent development and was necessary for proper adjudication of the dispute and was hence permitted notwithstanding the delay and laches. Contrarily, the petitioner herein seeks to introduce a defence that is mutually destructive of its original stance, by relying upon its own purchase orders dating back to 2016, which were available to the petitioner even before the institution of the suit.

27. During the course of arguments, the learned counsel for the petitioner placed further reliance on ***Dinesh Goyal v. Suman Agarwal (Bindal)***[6] to make out a case for allowance of its amendment application. This decision, like the aforementioned decisions, is distinguishable from the present case. In the said case, the Hon'ble Apex Court permitted amendment in a partition suit, observing that determination of the question of will was necessary to adjudicate the *inter se* dispute between the parties. However, in the present case, the petitioner is not seeking to challenge a document set up by the opposite side but is rather attempting to resile from its own denial.

28. In view of the aforesaid discussion, this Court is of the view that the learned Trial Court rightly dismissed the application of the petitioner under Order VI Rule 17 of the CPC, as the petitioner cannot be permitted to resile from its own denial, and introduce a mutually destructive defence. The impugned order dated 08.07.2024 suffers from no jurisdictional infirmity, perversity, or patent illegality warranting interference under Article 227 of the Constitution of India. Accordingly, the petition, being devoid of merit, is dismissed along with the pending applications, if any.

29. It is made clear that this Court has not expressed any opinion on the merits of the rival claims.

30. The judgment be uploaded on the website forthwith.

AJAY DIGPAUL, J.

SEPTEMBER 18, 2026/gs/as

[6] **2024 SCC OnLine SC 2615**