



2026:DHC:5106



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

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Judgment Reserved on: 11.05.2026

Judgment Delivered on: 15.06.2026

+ **CM(M) 169/2026 & CM APPL. 4386/2026**

SUNITA

.....Petitioner

Versus

BAJINDER KUMAR

.....Respondent

Advocates who appeared in this case

For the Petitioner : Mr. Shakir Mahmood & Ms. Falguni Rai, Advs. along with the Petitioner

For the Respondent : Mr. Naresh Kumar Beniwal & Mr. Nikhil Beniwal, Advs.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Petition has been filed under Article 227 of the Constitution of India, 1950 seeking setting aside and quashing of the order dated 29.10.2025 (“**Impugned Order**”) passed by the learned JSCC/ASCJ/GJ-02/West District, Tis Hazari Courts, Delhi (“**Trial Court**”) in CS SCJ 798/25 (“**Suit**”), whereby the learned Trial Court *inter alia* allowed the Respondent to file Replication to the Petitioner’s Written



Statement, as well as its Rejoinder to the Petitioner's Reply to the Application seeking interim relief under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 ("CPC") and further declined to allow the Petitioner to file Rejoinder to the Replication.

2. The Petitioner is Defendant No. 1, and the Respondent is the Plaintiff in the Suit.

FACTUAL MATRIX

3. On 31.05.2025, the Respondent instituted the Suit before the learned Trial Court, *inter alia*, seeking permanent and mandatory injunctions restraining the Petitioner and Defendant No. 2 therein from carrying out any illegal construction in any portion of the Suit Property bearing No. 2185/8, *Khasra* No. 375, Khampur Raya, Guru Arjun Nagar, New Delhi ("**Suit Property**").

4. *Vide* order dated 02.09.2025, the learned Trial Court condoned the delay of 13 days in filing the Written Statement by the Petitioner and took the same on record. The learned Trial Court further directed the Respondent to file its Replication, if any, on or before the next date of hearing.

5. Thereafter, *vide* the Impugned Order, the learned Trial Court permitted the Respondent to file its Replication to the Petitioner's Written Statement and Rejoinder to the Petitioner's Reply to the Application. The learned Trial Court further directed that the said Replication and Rejoinder be taken on record and rejected the request of the Petitioner to file Rejoinder to the Replication filed by the Respondent.

6. Being aggrieved thereby, the Petitioner preferred a revision petition, being C.R.P. 336/2025, before this Court assailing the Impugned Order. The



said petition was dismissed as withdrawn *vide* order dated 28.11.2025, with liberty granted to the Petitioner to avail of an appropriate remedy in accordance with law. Pursuant thereto, the present Petition has been instituted assailing the Impugned Order passed by the learned Trial Court in the Suit.

SUBMISSIONS ON BEHALF OF THE PETITIONER

7. The learned Counsel for the Petitioner advanced the following submissions:

- 7.1. Under Order VIII Rule 9 of the CPC, no pleading subsequent to filing of the Written Statement by the Defendant may be presented except with the leave of the Court.
- 7.2. The Impugned Order does not disclose any reasons justifying the filing of a Replication by the Respondent in the Suit. It is well settled that a Replication cannot be taken on record as a matter of routine, and permission for the same ought to be granted sparingly.
- 7.3. No application was filed by the Respondent pursuant to which the Replication could have been taken on record. Accordingly, it is submitted that the learned Trial Court permitted the filing of the Replication in a mechanical manner, without due application of mind. In support of the said contention, reliance was placed on the decision of the Hon'ble Supreme Court in *Noorul Hassan v. Nahakpam Indrajit Singh and Others*, (2024) 9 SCC 353.



7.4. The learned Trial Court arbitrarily declined the Petitioner's request to file a Rejoinder in response to the Respondent's Replication.

8. In view of the foregoing submissions, it was prayed that the present Petition be allowed and the Impugned Order passed by the learned Trial Court be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

9. The learned Counsel for the Respondent submitted that the Replication was filed in answer to the objections raised by the Petitioner in the Written Statement contesting the Suit. It was further submitted that the Replication filed by the Respondent does not travel beyond the scope of the pleadings in the Suit. Learned Counsel for the Respondent also contended that, upon being satisfied that the filing of the Replication was warranted, the learned Trial Court rightly granted leave to the Respondent to place the same on record.

10. In view of the aforesaid submissions, it was prayed that the present Petition be dismissed and the Impugned Order passed by the learned Trial Court be upheld.

ANALYSIS AND FINDINGS

11. Heard Learned Counsel for the parties and the material placed on record has been perused.

12. The principal grievance raised by the Petitioner is that the learned Trial Court permitted the Respondent to file the Replication without any application seeking leave to place the same on record. The gravamen of the Petitioner's challenge is that the Respondent's Replication was taken on



record in a routine manner, without the learned Trial Court considering whether such filing was warranted in the facts and circumstances of the Suit.

13. In support of the aforesaid contention, reliance has been placed by the Petitioner on the decision of the Hon'ble Supreme Court in *Noorul Hassan* (supra), wherein the judgment of this Court in *Anant Construction (P) Ltd. v. Ram Niwas*, 1994 SCC OnLine Del 615, was approved and the following observations were made:

“10. In Anant Construction (P) Ltd. v. Ram Niwas [Anant Construction (P) Ltd. v. Ram Niwas, 1994 SCC OnLine Del 615 : (1994) 31 DRJ 205] , the High Court of Delhi, in an exhaustive judgment authored by R.C. Lahoti, J. as his Lordship then was, dealt with the terms “replication” and “rejoinder”, as is commonly used for subsequent pleadings, as also as to when leave for filing subsequent pleading may be granted by the court. After referring to various legal texts including Corpus Juris Secundum, it was observed : (SCC OnLine Del paras 12-14)

“12. A more detailed rather exhaustive statement of law is to be found in Corpus Juris Secundum. It would be useful to extract and reproduce the following paragraphs:

‘A reply or replication is purely a defensive pleading, the office or function of which is to deny, or allege facts in avoidance of new matters alleged in the plea or answer and thereby join or make issue as to such new matters. (Para 184)

No reply or replication is necessary where the issues are completed by, and no new matter is set up, in the plea or answer. (Para 185 a.)

At common law a replication is necessary where a plea introduces new matter and concludes with a verification; but under the codes, practice acts, or rules of civil procedure of a number of States a reply to new defensive matter is not



necessary or is necessary only when ordered by the court. A reply to a counterclaim is generally necessary; but under some code provisions no reply or replication is required in any case. [Para 185 b.(1)]

The discretion which the court possesses, under some codes or practice acts, to direct the plaintiff, on the defendant's application, to reply to new matter alleged as a defence by way of avoidance will be exercised in favour of granting the application where the new matter, if true, will constitute a defence to the action and granting the order will prevent surprise and be of substantial advantage to the defendant without prejudice to the plaintiff. [Para 185 b(ii)]

A replication, however, is unknown in the practice of a few State and in some States is not permitted. So too, under a statute providing that there shall be no reply except in enumerated situations, a reply is not permissible in a case not within one of the exceptions. Indeed, generally, in jurisdictions wherein pleading is governed by statutory provisions, plaintiff has no right to file a reply when a reply is not required by statute or order of court and a reply filed in a case where no reply is required is to be treated as a nullity, unless, and to the extent that, it constitutes an admission by plaintiff, as discussed infra Para 204.

Under the common law system of pleading, plaintiff may, at his election, file a replication to a special plea setting up an affirmative defence. On the other hand, it is proper to reject a replication to pleas which merely traverse allegations of the declaration and set up no new matter. Where the plea concludes to the contrary, plaintiff cannot reply with any new matter but must either accept it by a similitur or demur. So a good special traverse can be answered only by joining issue thereon and not by filing a replication.' (Para 191)



13. *Decided cases in India use the term “rejoinder” loosely for a reply or replication filed by the plaintiff in answer to the defendant's plea. Strictly speaking a reply filed by the plaintiff (when permissible) is a replication. A pleading filed by the defendant subsequent to replication is a rejoinder.*

14. *A replication is not to be permitted to be filed ordinarily, much less in routine. A replication is permissible only in three situations : (1) when required by law; (2) when a counterclaim is raised by the defendant; (3) when the court directs or permits a replication being filed. The court may direct filing of a replication when the court having scrutinised the plaint and the written statement feels the necessity of asking the plaintiff to join specific pleadings to a case specifically and newly raised by the defendant in the written statement. The plaintiff may also feel the necessity of joining additional pleading to put forth his positive case in reply to the defendant's case but he shall have to seek the leave of the court by presenting the proposed replication along with an application seeking leave to file the same. The court having applied its mind to the leave sought for, may grant or refuse the leave. Ordinarily the necessity of doing so would arise only for “confession and avoidance”.”*

(emphasis supplied)

12. *Finally, the Court summed up its conclusions as under: (Anant Construction case [Anant Construction (P) Ltd. v. Ram Niwas, 1994 SCC OnLine Del 615 : (1994) 31 DRJ 205] , SCC OnLine Del para 24)*

“24. To sum up:

(1) “replication” and “rejoinder” have well defined meanings. Replication is a pleading by plaintiff in answer to defendant's plea. “Rejoinder” is a second pleading by defendant in answer to plaintiff's reply i.e. replication.

(2) To reach the avowed goal of expeditious disposal, all interlocutory applications are supposed to be disposed of



soon on their filing. A delivery of copy of the IA to the counsel for opposite party is a notice of application. Reply, if any, may be filed in between, if the time gap was reasonable enough, enabling reply being filed.

(3) IAs which do not involve adjudication of substantive rights of parties and/or which do not require investigation or inquiry into facts are not supposed to be contested by filing written reply and certainly not by filing replication.

(4) A replication to written statement is not to be filed nor permitted to be filed ordinarily, much less in routine. A replication is permissible in three situations:

- (i) when required by law;*
- (ii) when a counterclaim is raised or set-off is pleaded by defendant; and*
- (iii) when the court directs or permits a replication being filed.*

(5) Court would direct or permit replication being filed when having scrutinised plaint and written statement the need of plaintiff joining specific pleading to a case specifically and newly raised in written statement is felt. Such a need arises for the plaintiff introducing a plea by way of “confession and avoidance”.

(6) A plaintiff seeking leave of the court has to present before it the proposed replication. On applying its mind the court may grant or refuse the leave.

(7) A mere denial of defendant's case by plaintiff needs no replication. The plaintiff can rely on rule of implied or assumed traverse and joinder of issue.

(8) Subsequent pleadings are not substitute for amendment in original pleadings.



(9) A plea inconsistent with the plea taken in original pleadings cannot be permitted to be taken in subsequent pleadings.

(10) A plea which is foundation of plaintiff's case or essentially a part of cause of action of plaintiff, in absence whereof the suit will be liable to be dismissed or the plaint liable to be rejected, cannot be introduced for the first time by way of replication."

14. Upon a plain reading of the aforesaid extract, it is evident that the filing of a replication is permissible under Order VIII Rule 9 of the CPC only with the leave of the Court. It is further clear that a plaintiff seeking such leave is required to place the proposed replication before the Court, whereupon the Court, upon due application of mind, may either grant or decline such leave. At the same time, there is no inflexible procedural requirement mandating the filing of a separate application for leave, so long as the proposed replication is placed before the Court for its consideration.

15. The contention urged on behalf of the Petitioner is that the learned Trial Court permitted the Respondent to file the Replication in a routine manner, without due application of mind.

16. For considering the above objection, the relevant portion of the Impugned Order is extracted hereinbelow:

"Replication to WS and rejoinder to the reply to the application under Order XXXIX Rule 1 and 2 CPC has been filed today on behalf of the plaintiff. Copy supplied. Same is opposed on behalf of defendant no. 1 stating that plaintiff has not sought any relief from the Court under Order VIII Rule 9 CPC. Again counsel for defendant no. 1 has submitted that he wants to file compilation of judgments in this regard so as to satisfy the Court that leave to file replication should not be granted by the Court except in the case of



*exception circumstances. The counsel has been specifically told by the Court that he may file one main judgment he is relying upon and then he has stated that he relies upon judgment of **Shakur & Ors. Vs. Jaipur Development Authority dated 08.08.1986 passed by High Court of Madras.***

Heard. At the very first, it is observed that granting leave under Order VIII Rule 9 CPC is the prerogative of the Court and the defendant has no right to challenge the same, as said provision does not provide for seeking any reply or response from the defendant. Accordingly, the submissions of Ld. Counsel for the defendant no.1 are not required to be considered by the Court. On being enquired, Ld. Counsel for the plaintiff has submitted that replication is required to be filed as defendant has stated certain facts in the WS which are contrary to the record and they need to be explained.

Heard. Record perused. It is observed that for purpose of granting leave under Order VIII Rule 9 CPC no detailed order is required to be passed and accordingly, being satisfied with the submissions of Ld. Counsel for the plaintiff, leave is granted to the plaintiff for filing replication and rejoinder to the reply of the application under Order XXXIX Rule 1 and 2 CPC and same are taken on record.”

17. A perusal of the aforesaid extract from the Impugned Order indicates that the learned Trial Court took into consideration the submission advanced on behalf of the Respondent that the Replication was necessitated to explain certain averments contained in the Petitioner’s Written Statement which, according to the Respondent, were contrary to the record. It is also material to note that, upon recording its satisfaction that the filing of the Replication was warranted in the facts of the Suit, the learned Trial Court granted leave to place the same on record.



2026:DHC:5106



18. A perusal of the record further reveals that, in Paragraph No. 3 of the Written Statement filed before the learned Trial Court, the Petitioner denied the site plan annexed at Page No. 44 of the Plaint and alleged that the same had been prepared by the Respondent without the Petitioner's knowledge. In response thereto, the Respondent stated in the Replication that the said site plan had been furnished by the Petitioner at the time of purchase of the Suit Property and that the same also formed part of the relevant Sale Deed.

19. Accordingly, and without expressing any opinion on the merits of the Suit, this Court is of the view that the aforesaid plea raised by the Petitioner in the Written Statement warranted a response from the Respondent for the purposes of effective and proper adjudication of the Suit. Therefore, the learned Trial Court has, upon due application of mind, rightly permitted the filing of the Replication by the Respondent.

20. In view of the foregoing analysis and findings, this Court finds no infirmity in the Impugned Order dated 29.10.2025 passed by the learned Trial Court in the Suit warranting interference in exercise of jurisdiction under Article 227 of the Constitution of India.

21. Consequently, the present Petition, along with the pending Application, is dismissed. There shall be no order as to costs.

TEJAS KARIA, J

JUNE 15, 2026

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