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

% ***Reserved on: 18.08.2026***
Date of decision: 20.11.2026

\# **CNR No. DLHC010094342024**

\+ FAO(OS) 29/2024

KARAN KAPOOR .....Appellant

Through: Mr. Shree Prakash Sinha, Mr. Rakesh Mishra, Mr. Rishabh Kumar, Ms. Manya Sinha, Advs.

versus

MADHURI KUMAR AND ORS .....Respondents

Through: Mr. Ravinder Singh and Mr. Shivender Gupta, Advs.

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR

JUDGMENT

1. The present appeal has been preferred under Section 10 of the Delhi High Court Act, 1966, assailing the Order dated 22.01.2024 passed by the learned Single Judge in CS(OS) 397/2019, whereby the application filed by the Appellant, being I.A. No. 11430/2021, seeking amendment of the plaint, was dismissed.

2. Briefly stated, the Appellant/Plaintiff instituted CS(OS) 397/2019 seeking specific performance of three Agreements to Sell dated 22.04.2017, 25.05.2017 and 30.12.2017, along with consequential injunctive reliefs, in respect of property bearing No. B-228, Ground Floor, Greater Kailash-I, New Delhi ("Suit Property-I"). Respondent No. 1/Defendant No. 1 is the owner of Suit Property-I. Respondent No. 2/Defendant No. 2 is her son, in whose favour a general power of attorney

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in respect of the said property had been executed. Respondent No. 3/Defendant No. 3 is stated to be associated with Respondent No. 2.

3. It is the Appellant's case, as set out in the original plaint, that he had occupied Suit Property-I as a tenant under a lease agreement dated 07.08.2011, followed by a further lease agreement dated 07.08.2013. Upon expiry of the lease arrangement, Respondent No. 1, acting through Respondent Nos. 2 and 3, allegedly offered to sell the property to him. An Agreement to Sell dated 22.04.2017 (ATS-I) was thereafter executed in respect of Suit Property-I for a consideration of Rs. 3,60,00,000/-. The Appellant further agreed to transfer his rights, title and interest in a parcel of land measuring 1 bigha and 10 biswas situated at Gobindgarh, Tehsil Amloh, Punjab (hereinafter, "Suit Property-II"), to Respondent Nos. 1 and 2 as part consideration for Suit Property-I. In furtherance thereof, another Agreement to Sell dated 25.05.2017 (ATS-II) was executed. The plaint also referred to a subsequent Agreement to Sell dated 30.12.2017 (ATS-III), which, according to the Appellant, was executed after the parties agreed to reduce the consideration payable for Suit Property-I on account of difficulties concerning the transfer of a portion thereof.

4. During the pendency of the suit, the Appellant filed I.A. No. 11430/2021 seeking amendment of paragraphs 2, 4, 5, 6, 9, 13, 14, 15, 21 and 33 of the plaint, besides a consequential amendment to the prayer clause. The proposed amendments pertain to the alleged cash payments, valuation and adjustment of Suit Property-II, computation of the balance sale consideration, the role of Respondent Nos. 2 and 3, communications between the parties, loan arrangements, alleged delay in completion of the transactions, and consequential changes to the valuation and prayer clauses.

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5. Thereafter, *vide* impugned order, the learned Single Judge dismissed the amendment application holding that the proposed amendments concerning the alleged payment of Rs. 60,00,000/- and adjustment of Rs. 1,50,00,000/- were not part of the foundational pleadings and would alter the original cause of action. The learned Single Judge also relied upon the observations made by the learned Additional District Judge in the order dated 27.07.2023 in the connected proceedings, which had noted that the receipt dated 22.04.2017 was unsigned and contained discrepancies concerning the identity of the parties and the payment recorded therein. The learned Single Judge further held that, although the amendments proposed to paragraphs 2 and 4 were clarificatory in nature, the remaining amendments, when considered collectively, were inconsistent with the original case and would substantially alter its factual foundation. Aggrieved thereby, the Appellant has preferred the present appeal.

6. The Appellant assails the impugned order contending that the proposed amendments merely sought to incorporate material particulars of the transactions already forming the subject matter of the suit, without introducing a fresh cause of action or altering its fundamental character. He submits that the original plaint already referred to payments towards the purchase of Suit Property-I and the transfer of Suit Property-II as part consideration, and that the amendments merely quantified the amounts and elaborated upon the payments and adjustments. He further contends that the relevant documents and communications were available and that the amendments were necessary for effective adjudication of the dispute. It is also urged that the learned Single Judge erred in relying upon the observations of the learned Additional District Judge in the order dated

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27.07.2023, which was under challenge before this Court, since the genuineness and evidentiary value of the receipt dated 22.04.2017 could not have been conclusively determined at the stage of considering the amendment application. Pointing out that the trial in CS(OS) 397/2019 had not commenced, the Appellant submits that the amendments would cause no prejudice to the Respondents that could not be addressed by costs or by permitting them to respond to the amended pleadings.

7. The Respondents vehemently supported the impugned order submitting that the amendments seek to introduce, for the first time, a new factual case of payment of Rs. 60,00,000/- and adjustment of Rs. 1,50,00,000/- towards the sale consideration, that this case is inconsistent with the original plaint and ATS-I, and that it is aimed at overcoming the difficulties faced by the Appellant in the connected proceedings for possession and recovery of arrears of rent. They dispute the alleged payments and the valuation and adjustment of Suit Property-II, and contend that the receipt dated 22.04.2017 is unsigned and does not evidence any payment to Respondent No. 1.

8. We have heard learned counsel for the parties and perused the material placed on record.

9. The scope of the power under Order VI Rule 17 CPC is well settled. The provision is intended to enable the Court to determine the real questions in controversy and ordinarily requires a liberal approach, particularly where the trial has not commenced. At the same time, the power is not unqualified. An amendment may be declined where it changes the nature of the suit, introduces a case fundamentally different from the one originally pleaded, is mala fide, or causes prejudice which cannot be

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adequately addressed by permitting the opposite party to respond to the amended pleadings.

10. In ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited***, (2022) 16 SCC 1, Supreme Court held as under:

> ***"71.*** *Our final conclusions may be summed up thus:*
>
> ***71.1.*** *Order 2 Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order 2 Rule 2CPC is, thus, misconceived and hence negatived.*
>
> ***71.2.*** *All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order 6 Rule 17CPC.*
>
> ***71.3.*** *The prayer for amendment is to be allowed:*
>
> ***71.3.1.*** *If the amendment is required for effective and proper adjudication of the controversy between the parties.*
>
> ***71.3.2.*** *To avoid multiplicity of proceedings, provided*
>
> *(a) the amendment does not result in injustice to the other side,*
>
> *(b) by the amendment, the parties seeking amendment do not seek to withdraw any clear admission made by the party which confers a right on the other side, and*
>
> *(c) the amendment does not raise a time-barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).*
>
> ***71.4.*** *A prayer for amendment is generally required to be allowed unless:*
>
> ***71.4.1.*** *By the amendment, a time-barred claim is sought to be introduced, in which case the fact that the claim would be time-barred becomes a relevant factor for consideration.*
>
> ***71.4.2.*** *The amendment changes the nature of the suit.*
>
> ***71.4.3.*** *The prayer for amendment is mala fide, or*
>
> ***71.4.4.*** *By the amendment, the other side loses a valid defence.*
>
> ***71.5.*** *In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required*

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to be liberal especially where the opposite party can be compensated by costs.

71.6. *Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.*

71.7. *Where the amendment merely sought to introduce an additional or a new approach without introducing a time-barred cause of action, the amendment is liable to be allowed even after expiry of limitation.*

71.8. *Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.*

71.9. *Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.*

71.10. *Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*

71.11. *Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi [Vijay Gupta v. Gagninder Kr. Gandhi, 2022 SCC OnLine Del 1897] .)"*

11. In ***Ganesh Prasad v. Rajeshwar Prasad***, 2023 SCC OnLine SC 256, the Supreme Court held:

*"**33**. There cannot be any doubt or dispute that the courts should be liberal in allowing applications for leave to amend pleadings but it is also well settled that the courts must bear in mind the statutory limitations brought about by reason of the Code of Civil Procedure*

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(Amendment) Acts; the proviso appended to Order VI Rule 17 being one of them. In North Eastern Railway Administration, Gorakhpur v. Bhagwan Das reported in (2008) 8 SCC 511, the law has been laid down by this Court in the following terms : (SCC p. 517, para 16)

> *"16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363] which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. (Also see Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwar [(1990) 1 SCC 166].)"*
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> **********
>
> ***37.*** *Thus, the Plaintiffs and Defendant are entitled to amend the plaint, written statement or file an additional written statement. It is, however, subject to an exception that by the proposed amendment, an opposite party should not be subject to injustice and that any admission made in favour of the other party is not but wrong. All amendments of the pleadings should be allowed liberally which are necessary for determination of the real controversies in the suit provided that the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken."*

12. Applying the aforesaid principles, the proposed amendments are required to be examined in the context of the original plaint as a whole and not merely by reference to the individual paragraphs sought to be amended. Undoubtedly, the fact that the trial has not commenced is a significant consideration favouring a liberal approach, since the opposite party would ordinarily have an opportunity to meet the amended pleadings. However, the stage of the proceedings is not the sole or determinative consideration.

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Even at the pre-trial stage, an amendment may be declined where it seeks to introduce a substantially different factual foundation, alters the essential nature of the case originally pleaded, or otherwise results in prejudice which cannot be adequately addressed by permitting the opposite party to respond. It is in this context that the proposed amendments are required to be examined.

13. The amendments proposed to paragraphs 2 and 4 of the plaint seek to elaborate upon the role attributed to Respondent Nos. 2 and 3 in the negotiations between the parties, the execution of the agreements and the alleged deposit of title documents with the bank. The original plaint had already adverted to their involvement in the negotiations and the deposit of the property documents. Viewed independently, these amendments are substantially explanatory in nature and do not, by themselves, introduce a new cause of action. However, the proposed amendments cannot be examined in isolation from the remaining changes sought to be introduced in the plaint. The additional particulars sought to be incorporated in these paragraphs are sought to be read as part of the expanded factual narrative concerning the alleged payments, adjustments and revised computation of the sale consideration. Their relevance and significance, therefore, arise from the larger factual case which the Appellant seeks to introduce through the remaining amendments. The question of permitting these amendments independently must, accordingly, be considered in the context of whether the proposed amendments, taken as a whole, are severable and capable of being incorporated without materially altering the nature of the original pleadings.

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14. The amendment proposed to paragraph 5 stand on different footing. The original plaint stated that Respondent No. 2 had approached the Appellant in 2015 and demanded a significant sum, which was thereafter paid to Respondent No. 1. The proposed amendment introduces an specific case of cash payments aggregating to Rs. 60,00,000/- between 07.07.2014 and 22.04.2017, together with the circumstances in which the payments were allegedly arranged and made. This is not merely a quantification of an amount already pleaded. It introduces an estimated period, manner and circumstances of huge amount of payments which form a substantial part of the consideration. These particulars were within his personal knowledge, yet were not furnished with the original plaint.

15. The amendment to paragraph 6 seeks to rely upon the receipt dated 22.04.2017 and the emails dated 26.04.2017 and 24.05.2017 to assert that the alleged earnest money of Rs. 60,00,000/- stood adjusted against the consideration under ATS-I, although the adjustment was not reflected in that agreement. The proposed amendment, thus, seeks to introduce a new specific factual basis for treating a substantial payment as having been made and adjusted towards the sale consideration. The documents relied upon were available before institution of the suit, but the original plaint neither did set out this case in the manner now proposed nor the said documents made and filed as basis of suit.

16. Furthermore, the original plaint did refer to the transfer of Suit Property-II as part consideration for Suit Property-I. It did not, however, attribute to Suit Property-II a value of Rs. 1,50,00,000/- or plead that this specific amount was to be adjusted against the consideration payable under ATS-I. The proposed amendment to paragraph 9 introduces this new

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quantified valuation and adjustment, which forms an essential component of the revised computation of consideration. Significantly, ATS-I records the consideration for Suit Property-I as Rs. 3,60,00,000/-, whereas the proposed amendment proceeds on a new figure of Rs. 4,27,00,000/-. After deducting the alleged cash payment of Rs. 60,00,000/- and the value of Suit Property-II at Rs. 1,50,00,000/-, the Appellant arrives at a balance of Rs. 2,17,00,000/-. The difference of Rs. 67,00,000/- between the consideration recorded in ATS-I and the figure now introduced remains unexplained. Further, paragraph 12 of the original plaint attributes the reduction in consideration to the inability to transfer a portion of Suit Property-I, whereas the proposed paragraph 9 attributes the revised computation to the value and adjustment of Suit Property-II. The proposed paragraph 13 proceeds on the basis that Rs. 2,17,00,000/- was the balance consideration under ATS-III, besides referring to a further sum of Rs. 7,00,000/- payable at the time of execution of the sale deed, without adequately explaining its relationship with the stated balance. The difficulty, therefore, is not merely that the Appellant seeks to plead additional particulars of consideration, but, that the proposed computation introduces a materially different account of the consideration allegedly agreed upon and discharged, without reconciling the same with the consideration recorded in ATS-I and the explanation for its subsequent reduction already set out in the original plaint. Therefore, in fact, the proposed amendment factually sets up a new case.

17. The amendments to paragraphs 13, 14 and 15 seek to introduce further particulars concerning the alleged balance consideration, the additional payment of Rs. 7,00,000/-, bank verification, the stilt area,

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communications with the Respondents and the loan arrangements. While the original plaint had already referred to the Appellant's efforts to obtain a loan of Rs. 1,70,00,000/- and to the delay in completion of the transaction, the proposed amendments seek to elaborate upon these matters by relying upon communications and documents which pre-date institution of the suit. These amendments also form part of the revised account of consideration and its alleged adjustment and must be considered in that context.

18. The proposed amendment to paragraph 21 seeks to elaborate upon the existing allegations of fraud, deception and conspiracy by attributing to the Respondents a deliberate attempt to delay registration of the sale deeds in respect of both properties and thereby frustrate the transaction. Although the original plaint contained general allegations of fraudulent and deceptive conduct, the specific acts and circumstances now sought to be pleaded relate to events preceding institution of the suit and are intertwined with the revised account of payments, adjustments and consideration. In the circumstances, these amendments cannot be viewed merely as an independent elaboration of the original allegations.

19. The amendment to paragraph 33 is consequential to the aforesaid changes. The proposed valuation is stated as Rs. 3,67,00,000/- in figures, whereas the amount expressed in words is Rs. 2,17,00,000/-. The basis of valuation is also sought to be altered by reference to ATS-II as partial consideration. Whether the discrepancy is clerical or otherwise, is not explained. We do not treat it as decisive by itself. It is noted because, read with the unexplained variation in the consideration figures, it shows that the revised case has not been presented in a form that can be reconciled

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with the original pleadings. The consequential amendment to the prayer clause must be considered in the same context.

20. The proposed amendments, therefore, do not merely introduce additional particulars or alternative pleas in support of the original case. Taken together, they introduce a materially different factual account of the consideration agreed upon and the manner in which it was allegedly discharged. The amendments consequently travel beyond the permissible scope of elaborating the original pleadings and is an attempt to set up a new factually different case altogether.

21. In view of the foregoing discussion, we find no ground warranting interference with the Impugned Order. The appeal is, accordingly, dismissed, and the order dated 22.01.2024 is affirmed. There shall be no order as to costs. Pending applications, if any, stand disposed of.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

NOVEMBER 20, 2026/*kp*

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