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

Date of decision: 14<sup>th</sup> JANUARY, 2026

IN THE MATTER OF:

+ **I.A. 13177/2023**

IN

**CS(OS) 166/2023**

PARAMJIT SINGH

.....Plaintiff

Through: Mr Hrishikesh Baruah, Mr Kshitij Paliwal, Mr Sumit Saini, Mr Rishabh Gupta, Mr Prabhpreet Singh Wadhwa, Mr Vipul Biala, Ms Nishtha Sachan, Ms Pragya Agarwal, Advs.

versus

HARDAMAN SINGH & ORS.

.....Defendants

Through: Mr. Prashant Mehta, Mr. Vaibhav Chawla, Mr. Dhruv Chawla, Advs for D1(A), 2 & 3  
Mr. Siddharth Arora, Mr. Gaurav Kumar, Ms. Ananya Singh, Adv. for D1(b)  
Mr. Aviral Tiwari, Adv. for D-4  
Mr. Raman kapur, Senior Advocate with Dhiraj Sachdeva, Advocates for D-5 & 6

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT (ORAL)**

**I.A. 13177/2023**

1. This application under Order VI Rule 17 read with Section 151 of CPC has been filed by the Plaintiff for amendment of Plaintiff.



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2. The present Suit is one for declaration, partition, permanent injunction, with respect to the Suit Properties mentioned in paragraph No.3 of the Plaintiff.

3. Before dwelling into the facts of the case, it is imperative to understand the family lineage which originates from the siblings and adopted children of Late Smt. Darshan Kaur and her extended family. It is stated that Late Smt. Darshan Kaur, Sh. Jeet Singh, Smt. Harbans Kaur and Smt. Jaswant Kaur were siblings and Late Smt. Darshan Kaur had no biological children. It is stated that the Plaintiff (Paramjit Singh) is the biological son of Sh. Jeet Singh and was formally adopted by Late Smt. Darshan Kaur and her husband Late Sh. Raghbir Singh in the year 1970. It is stated that Smt. Harbans Kaur had a biological daughter, Smt. Harjeet Kaur, who was also given in adoption to Late Smt. Darshan Kaur. It is stated that Smt. Harjeet Kaur later married Sh. Kanwalnain Singh Anand and became the mother of Defendants No. 1, 2 and 3 herein, thereby making Defendants No. 1, 2 and 3 the adopted grandchildren of Late Smt. Darshan Kaur. It is stated that Smt. Jaswant Kaur, another sister of Late Smt. Darshan Kaur, had a daughter namely, Smt. Avinash Kaur, who is the mother of Defendant No. 4 (Sh. Tarunjyot Singh). It is stated that Smt. Prakash Kaur was the first wife of Late Sh. Raghbir Singh, and Defendants No. 5 (Sh. Gurdip Singh) and Defendant No. 6 (Smt. Kamlesh Kumari) are her beneficiaries and hold shares in the estate derived through her branch.

4. Accordingly, the Plaintiff claims rights as the adopted son of Late Smt. Darshan Kaur, Defendants No. 1 to 3 claim through their mother Smt. Harjeet Kaur, Defendant No. 4 claims through his mother Smt. Avinash Kaur, and Defendants No. 5 and 6 claim through the estate of Late Smt.



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Prakash Kaur, all of whom are interconnected through marriage, blood, or adoption within the same family.

5. The facts of the case, as discernible from the Plaint, are as under:
- a. It is stated that after being adopted by Late Smt. Darshan Kaur and Late Sh. Raghbir Singh, the Plaintiff started living with them at Property No. 8, Tolstoy Marg, New Delhi (*hereinafter referred to as 'the Tolstoy Marg property'*). It is stated that late Sh. Raghbir Singh had no biological children and was the absolute owner of several residential and commercial properties. It is stated that Sh. Raghbir Singh passed away in the year 1986, leaving behind two wives, Smt. Prakash Kaur and Smt. Darshan Kaur, and his Will was duly probated on 05.11.1986, by virtue of which his estate was divided equally between the two wives.
  - b. It is stated that after the death of Late Sh. Raghbir Singh, the Plaintiff continued to live with Late Smt. Darshan Kaur at the Tolstoy Marg property and took active responsibility of managing family businesses and properties.
  - c. It is stated that the Plaintiff got married on 28.04.1985 and began residing with his wife in the rear portion of the Tolstoy Marg property, which he has continuously occupied ever since.
  - d. It is stated that over the years, the Plaintiff exclusively looked after Smt. Darshan Kaur's personal care, financial affairs, collection of rent, and management of properties.
  - e. It is stated that on 27.03.2009, Smt. Darshan Kaur executed a registered Will by which she bequeathed 25% share in her



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estate to the Plaintiff, while the remaining shares were distributed among other family members, including the branch of Smt. Harjeet Kaur, who is the mother of Defendants No. 1 to 3, and Smt. Avinash Kaur, who is the mother of Defendant No. 4.

- f. It is stated that from the year 2015, Late Smt. Darshan Kaur's health began to deteriorate due to age-related ailments, and after the death of Smt. Harjeet Kaur in March 2016, Defendants No. 1 to 3 and their father Sh. Kanwalnain Singh Anand allegedly began increasing their interference in Late Smt. Darshan Kaur's life and gradually restricted the Plaintiff's access to her.
- g. It is stated that tensions escalated on 13.04.2018, when the Plaintiff was allegedly assaulted by Defendant No. 1. It is stated that the Plaintiff herein filed police complaints on 13.04.2018 and 15.04.2018 but since no effective protection was provided and the Plaintiff was being prevented from meeting and caring for Late Smt. Darshan Kaur, he filed Writ Petitions, being Writ Petition (CRL) No. 1125/2018 and Writ Petition (CRL) No. 1698/2018 before this Court seeking protection of life and liberty, access to Late Smt. Darshan Kaur, and restraint against the Defendants from interfering in his peaceful residence and relationship with Late Smt. Darshan Kaur. It is stated that in the said Writ proceedings, the Plaintiff specifically pleaded that the Defendants were unlawfully isolating Late Smt. Darshan Kaur and attempting to alienate her from the Plaintiff. It is stated that this Court directed the police authorities to ensure that no



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coercion or violence was used against the Plaintiff and that Late Smt. Darshan Kaur was allowed to meet the Plaintiff of her own free will.

- h. It is stated that relations between the parties deteriorated further, and on 22.03.2022, Defendant No. 2 allegedly attempted to dismantle the main gate of the Tolstoy Marg property, which was stopped only after police intervention, leading to another complaint on the same date.
- i. It is stated that as the Plaintiff was continuously denied access to Late Smt. Darshan Kaur and faced repeated threats of dispossession, he was constrained to file a Suit, being CS SCJ 1108/22, before the Court of Senior Civil Judge, Patiala House Courts, New Delhi, in June 2022, seeking declaration to establish his status as her adopted son.
- j. It is stated that Late Smt. Darshan Kaur passed away on the intervening night of 06.09.2022 and 07.09.2022. It is stated that on 08.09.2022, the Defendants allegedly deployed bouncers to forcibly occupy the front portion of the Tolstoy Marg property and began threatening the Plaintiff and his family. It is stated that complaints to this effect were made to the police on 13.10.2022. It is stated that representations were also submitted to the municipal authorities on 20.10.2022 and 06.02.2023 to prevent illegal mutation and alienation of the suit properties.
- k. It is stated that as the Defendants allegedly continued to interfere with the Plaintiff's peaceful possession, siphon rental income, attempt illegal mutation, and refuse partition despite



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repeated requests, the Plaintiff filed the present Suit praying for a decree of declaration declaring him to be the absolute owner of 25% undivided share in the Entire Suit Property as described in paragraph 3 of the Plaint, on the basis of the registered Will dated 27.03.2009 executed by Late Smt. Darshan Kaur, along with a decree of partition of Property No. 8, Tolstoy Marg, Connaught Place, New Delhi, as well as the remaining properties forming part of the Entire Suit Property, by metes and bounds in accordance with the respective shares of the parties. The Plaintiff has also sought for a decree of permanent injunction restraining the Defendants from alienating, transferring, creating third-party interests, changing the status quo, or interfering with his lawful possession and enjoyment of the suit properties, and a decree of mandatory injunction directing Defendant Nos. 1 to 3 to remove their bouncers/goons from the Tolstoy Marg Property.

6. Summons in the Suit were issued on 07.03.2023. Written Statements were filed by Defendants No. 5 and 6 on 09.05.2023 and by Defendants No. 1, 2 and 3 on 15.05.2023. Issues are yet to be framed.

7. In the Written Statements filed by the Defendants, it is contended that the present Suit is false, frivolous, misconceived, and an abuse of the process of law as the same has been filed on suppression and concealment of material facts by the Plaintiff, and is, therefore, liable to be dismissed at the threshold. It is stated that the Plaintiff has no right, title, or interest in the estate of Late Smt. Darshan Kaur and that the entire Suit is founded on a revoked and non-existent Will dated 27.03.2009. According to the



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Defendants, the said Will was expressly revoked by Late Smt. Darshan Kaur during her lifetime by a series of subsequent registered Wills, namely the registered Will dated 04.10.2016, thereafter the registered Will dated 02.01.2020 revoking all prior Wills, and finally the registered Will dated 24.03.2022, which revoked all earlier Wills, codicils, and writings and, therefore, it is the last and final testament of Late Smt. Darshan Kaur. The Defendants assert that the execution of all these subsequent Wills was within the knowledge of the Plaintiff, who deliberately concealed the same from this Court. It is stated in the last Will dated 24.03.2022, no substantive right was conferred upon the Plaintiff, who was described only as a permissive occupant/licensee in a portion of Property No. 8, Tolstoy Marg, New Delhi, with directions to the Plaintiff to vacate the premises after the demise of Smt. Darshan Kaur subject to payment of a specified amount, and that the Defendants are the exclusive beneficiaries entitled to deal with the estate of Late Smt. Darshan Kaur. The Defendants have further categorically denied that the Plaintiff was ever adopted by Late Smt. Darshan Kaur or Late Sh. Raghbir Singh, asserting that the Plaintiff is merely the biological son of Darshan Kaur's sister and, at best, the adopted son of Late Smt. Harbans Kaur. To substantiate this contention, the Defendants have relied on the affidavits and statements of Late Smt. Darshan Kaur which were filed in W.P. (CRL.) No. 1125/2018 and W.P. (CRL.) No. 1698/2018, including statements recorded by a Local Commissioner, wherein Late Smt. Darshan Kaur had categorically denied adopting the Plaintiff and had accused him of misbehaviour and misconduct. It is stated that these statements were accepted by the Court. It is further stated that Late Smt. Darshan Kaur consistently described the Plaintiff in her Wills as her sister's son and



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acknowledged Late Smt. Harjeet Kaur as her adopted daughter and Defendants No. 1 to 3 as her grandchildren. The Defendants have also asserted that during her lifetime, Late Smt. Darshan Kaur lawfully dealt with and disposed of several properties, including through Sale Deeds dated 22.05.2019 and 24.05.2019 and an Agreement to Sell dated 05.04.2021, and that certain properties mentioned in the Plaint stood sold or did not form part of her estate at all. It is stated that after the demise of Late Smt. Darshan Kaur on the intervening night of 06.09.2022–07.09.2022, the last Will dated 24.03.2022 was duly accepted and acted upon, pursuant to which Defendants No. 1 to 3 and Defendants No. 5 and 6 entered into an oral family settlement dated 28.09.2022 which was subsequently reduced into writing and registered on 14.12.2022, whereby shares in various Kashmere Gate properties were redistributed *inter se*, followed by execution of a registered Relinquishment/Release Deed dated 10.10.2022 by Defendants No. 1 to 3 in favour of Defendant No. 5, and consequent mutation proceedings carried out in municipal records. The Defendants have denied all allegations of fraud, coercion, clandestine dealings, illegal siphoning of rent, deployment of bouncers, or forcible dispossession, asserting that all actions were lawful and strictly in accordance with the last testamentary wishes of Late Smt. Darshan Kaur, who, according to them, remained in a sound and disposing state of mind till her demise, as confirmed by the Local Commissioner's report in the Writ proceedings. It is further stated that the Plaintiff was not taking care of Late Smt. Darshan Kaur and had strained relations with her. It is further stated that it was his conduct which made Late Smt. Darshan Kaur to change her testamentary dispositions. The Defendants have also raised objections to the maintainability of the suit,



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pleading absence of cause of action, improper valuation, and non-payment of *ad-valorem* court fee despite the Plaintiff valuing the suit at Rs. 50 crores. On these grounds, the Defendants have prayed for dismissal of the suit.

8. The present Application has been filed by the Plaintiff for amending the Plaint. In the present Application, it is stated that in the Written Statements filed by the Defendants, several transactions, documents, and dealings concerning the estate of Late Smt. Darshan Kaur were disclosed for the first time. It is stated that the disclosures revealed the existence of multiple alleged Wills dated 04.10.2016, 02.01.2020 and 24.03.2022, alleged sale deeds dated 24.05.2019 and 22.05.2019, an Agreement to Sell dated 05.04.2021, a Relinquishment Deed dated 10.09.2022, an alleged oral family settlement dated 28.09.2022, a Memorandum of Understanding dated 15.10.2022, and mutation proceedings dated 10.10.2022, all purportedly relating to the properties of Late Smt. Darshan Kaur. It is the case of the Plaintiff that these facts were intentionally concealed from him and that the Defendants, taking advantage of Late Smt. Darshan Kaur's deteriorating health after 2015 and particularly after the death of late Smt. Harjit Kaur in March 2016, took control of her finances, isolated her from the Plaintiff, and made her execute documents under fraud, coercion, undue influence, and misrepresentation. The principal grounds taken by the Plaintiff for seeking amendment are that the disclosures made in the Written Statements have fundamentally altered the nature and scope of the dispute and have revealed systematic alienation and misappropriation of the estate of Late Smt. Darshan Kaur during her lifetime and immediately after her death. The Plaintiff has stated that at the time of filing the original Plaint he had no knowledge of the alleged subsequent Wills, Sale Deeds, Agreements,



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Relinquishment Deed, or Family Settlement, and therefore could not have pleaded specific particulars of fraud, fabrication, *benami* transactions, and conspiracy. It is further stated that Defendant No. 5, in collusion with Defendants No. 1 to 4 and others, fraudulently enriched himself by alienating properties through closely-held companies such as Taneja Builders Pvt. Ltd., where Defendant No. 5 and his family members are directors, and by entering into transactions which were grossly undervalued. The Plaintiff has also relied upon the statement of Late Smt. Darshan Kaur recorded on 26.09.2018 during police inquiry, which allegedly shows that her signatures were obtained without her understanding the contents of documents and that she did not even know English. The Plaintiff has therefore contended that the amendments are necessary for proper adjudication, to avoid multiplicity of proceedings, and to enable the Court to decide the real controversy between the parties.

9. Through the present Application, the Plaintiff seeks to amend the prayer clause to seek a declaration that all documents executed by Late Smt. Darshan Kaur after March 2016, including the alleged Wills dated 04.10.2016, 02.01.2020 and 24.03.2022, the Sale Deed dated 24.05.2019, and the Agreement to Sell dated 05.04.2021, are null and void. The Plaintiff also seeks a declaration that the Relinquishment Deed dated 10.09.2022, the Memorandum of Understanding dated 15.10.2022, and the alleged oral family settlement, are illegal and void. It is the case of the Plaintiff that the amendments sought by the Plaintiff do not change the basic nature of the Suit but only elaborate and clarify the existing cause of action and are essential for complete and effective adjudication of the dispute concerning the estate of Late Smt. Darshan Kaur.



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10. For adjudication of the present application, it is pertinent to cull out the portions which are sought to be amended in the present Application. The same reads as under:

<b>Paragraph / Section</b>	<b>Original Plaintiff</b>	<b>Proposed Amendments</b>
<b>Para 2 (Reliefs clause – nature of suit)</b>	Plaintiff sought declaration of his share in the estate and permanent and mandatory injunctions for non-interference with his peaceful enjoyment of his share.	Expanded to additionally seek declaration that all documents executed by Late Smt. Darshan Kaur after March 2016 (including alleged Wills dated 04.10.2016, 02.01.2020, 24.03.2022, Sale Deed dated 24.05.2019, Agreement to Sell dated 05.04.2021) are null and void; declaration that Relinquishment Deed dated 10.10.2022 and MoU dated 15.10.2022 are null and void; and rendition of accounts.
<b>Para 19 (Health and vulnerability of Darshan Kaur)</b>	Pleaded that from around 2015 Darshan Kaur's health deteriorated due to age-related ailments and worsened after the death of Harjeet Kaur in March 2016.	Retains original facts and adds specific averments that from March 2016 onwards the Defendants and Kanwal Nain Singh and Avinash Kaur conspired to take control of Darshan Kaur's life and finances, alienated her from the Plaintiff, and made her execute documents without understanding, under fraud, coercion, and undue influence.
<b>After Para 22 – insertion of Para 22A</b>	No pleading regarding any Will after 2009.	Introduces Para 22A pleading existence of an alleged Will dated 04.10.2016, alleging that it was fraudulently created under coercion and undue influence, and highlighting the suspicious execution of multiple Wills between 2016 and 2022.
<b>After Para 24 – insertion of Para 24A</b>	No pleading regarding police statements or documentary misuse.	Introduces Para 24A relying on statement of Darshan Kaur recorded on 26.09.2018 during police inquiry, indicating that her signatures were taken without her knowledge and that she did not know English.
<b>After Para 25 –</b>	No pleading regarding	Introduces detailed pleadings



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<b>insertion of Paras 25A, 25B, 25C</b>	sale deeds, benami transactions, or specific alienations.	regarding Sale Deed dated 22.05.2019 in favour of Taneja Builders Pvt. Ltd., alleging benami nature and undervaluation; alleged Will dated 04.10.2016; and Agreement to Sell dated 05.04.2021 relating to Property No. 15A, Motia Khan, alleging Defendant No. 5 as real beneficiary.
<b>After Para 27 – insertion of Para 27A</b>	No pleading regarding Will dated 24.03.2022.	Introduces Para 27A challenging alleged Will dated 24.03.2022 as fraudulent, including challenge to the accompanying medical certificate.
<b>After Para 30 – insertion of Para 30A</b>	No pleading regarding relinquishment or family settlement.	Introduces Para 30A challenging Relinquishment Deed dated 10.09.2022, alleged oral family settlement, and MoU dated 15.10.2022 as illegal, hurried, and executed without probate or notice to beneficiaries.
<b>Prayer (a)</b>	Declaration of Plaintiff's share in the estate.	Modified to specifically declare Plaintiff as absolute owner of 25% undivided share in the "Entire Suit Property" as per Will dated 27.03.2009.
<b>Prayer (b)</b>	Partition of "Entire Suit Property" (other than Suit Property-I) as per pleaded shares.	Clarified to seek partition strictly in accordance with Will dated 27.03.2009.
<b>Prayer (c)</b>	Partition of Property No. 8, Tolstoy Marg by metes and bounds as per pleaded shares.	Retained, with removal of internal share reference, leaving partition by metes and bounds to adjudication.
<b>Additional Prayers (h), (i), (j), (k)</b>	No such prayers.	New prayers seeking (i) declaration that all post-2016 documents are null and void, (ii) alternative damages if transactions are held bona fide, (iii) declaration that relinquishment deed, MoU and oral settlement are void, and (iv) rendition of accounts of Darshan Kaur.
<b>Nature of Allegations</b>	General apprehension of illegal interference and	Detailed and specific pleadings of fraud, fabrication, undue influence,



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	mutation; no detailed fraud pleadings.	coercion, benami transactions, conspiracy, and clandestine alienation of estate assets.
<b>Cause of Action</b>	Based on succession, denial of share, and post-death interference.	Same cause of action, elaborated by subsequent discoveries disclosed in Written Statements; no new or independent cause introduced.

11. Replies to the present Application have been filed by the Defendants objecting to the present Application on the ground that the Plaintiff was fully aware of the existence of the subsequent Wills, particularly the last Will dated 24.03.2022, even prior to filing the present Suit. It is stated that the Plaintiff deliberately suppressed these material facts while approaching the Court, thereby disentitling himself from any discretionary relief of amendment on account of lack of *bona fides* and clean hands. The Defendants have further urged that the proposed amendments fundamentally change the nature and character of the Suit from a simple partition and declaration suit into a complex action seeking cancellation and declaration of invalidity of multiple Wills, registered sale deeds, agreements to sell, relinquishment deeds, and family settlements, which, according to them, is impermissible in law at the stage of amendment. It is also pleaded that in the present Suit, the Plaintiff cannot seek declarations to set aside documents executed by Late Smt. Darshan Kaur during her lifetime and that such reliefs would require independent proceedings. The Defendants have additionally objected that the proposed amendments and additional prayers are barred by limitation and Order II Rule 2 CPC, as the Plaintiff is seeking to introduce claims and reliefs which were allegedly within his knowledge at the time of filing the original Plaint. The Defendants have denied the allegations of fraud, coercion, undue influence, benami transactions, and conspiracy. It is



the stand of the Defendants that Late Smt. Darshan Kaur was mentally sound and competent to execute documents until her demise and that all transactions were carried out by her legally and voluntarily. The Defendants have also taken the ground that the Plaintiff is attempting to bring additional documents on record under the garb of an amendment application, which is procedurally impermissible, and that the present amendment is a misuse and abuse of the process of law intended only to delay the proceedings. On these grounds, the Defendants have prayed for dismissal of the amendment application.

12. Heard the learned Counsels for the parties and perused the material on record.

13. Before going further, it is pertinent to extract Order VI Rule 17 of the CPC and the same reads 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.”*

14. Order VI Rule 17 of the CPC permits amendment of pleadings at any stage, so long as such amendment is necessary for determining the real questions in controversy, and provided the application is not hit by the proviso restricting post-trial amendments. As issues in the present Suit have



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not yet been framed, the bar under the proviso does not come into operation.

15. The law relating to amendment of pleadings under Order VI Rule 17 of the CPC has been crystallized by the Apex Court in several cases. It is settled law that courts should have a liberal approach in allowing amendment of pleadings. The Apex Court in Ganesh Prasad v. Rajeshwar Prasad & Ors, **2023 SCC OnLine SC 256**, has held as under:

*“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 (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].)”

34. *In the case of P.A. Jayalakshmi v. H. Saradha reported in (2009) 14 SCC 525, the above observations were reiterated by this Court and in the light of the same, this Court in para 9 held as under:*

*“9. By reason of the Code of Civil Procedure (Amendment) Act, 1976, measures have been taken for early disposal of the suits. In furtherance of the aforementioned parliamentary object, further amendments were carried out in the years 1999 and 2002. With a view to put an end to the practice of filing applications for amendments of pleadings belatedly, a proviso was added to Order 6 Rule 17 which reads as under:*

*“17. Amendment of pleadings.—The court may at any stage of the proceedings allow either party to alter or amend his pleading 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.””*

35. *In B.K. Narayana Pillai v. Parameswaran Pillai reported in (2000) 1 SCC 712, this Court referred to the following passage from A.K. Gupta and Sons Ltd. v. Damodar Valley Corporation reported in AIR 1967 SC 96 wherein, it was held as follows:—*

*“4. This Court in A.K. Gupta & Sons Ltd. v. Damodar Valley Corpn. [AIR 1967 SC 96 : (1966) 1 SCR 796] held:*



*“The general rule, no doubt, is that a party is not allowed by amendment to set up a new case or a new cause of action particularly when a suit on new case or cause of action is barred: Weldon v. Neal [[L.R.] 19 Q.B. 394 : 56 LJ QB 621]. But it is also well recognised that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation : See Charan Das v. Amir Khan [AIR 1921 PC 50 : ILR 48 Cal 110] and L.J. Leach and Co. Ltd. v. Jardine Skinner and Co. [AIR 1957 SC 357 : 1957 SCR 438]*

*The principal reasons that have led to the rule last mentioned are, first, that the object of courts and rules of procedure is to decide the rights of the parties and not to punish them for their mistakes (Cropper v. Smith [[L.R.] 26 Ch. 700 : 53 LJ Ch 891 : 51 LT 729]) and secondly, that a party is strictly not entitled to rely on the statute of limitation when what is sought to be brought in by the amendment can be said in substance to be already in the pleading sought to be amended (Kisandas Rupchand v. Rachappa Vithoba Shilwant [ILR (1909) 33 Bom 644 : 11 Bom LR 1042] approved in Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil [AIR 1957 SC 363 : 1957 SCR 595]).*

*The expression ‘cause of action’ in the present context does not mean ‘every fact which it is material to be proved to entitle the plaintiff to succeed’ as was said in Cooke v. Gill [[L.R.] 8 C.P. 107 : 42 LJCP 98 : 28 LT 32] in a different context, for if it were so, no material fact could ever be amended or added and, of course, no one would want to change or add an immaterial allegation by amendment. That expression for the present purpose only means, a new claim made on a*



*new basis constituted by new facts. Such a view was taken in Robinson v. Unicos Property Corpn. Ltd. [[1962] 2 All ER 24 (CA)] and it seems to us to be the only possible view to take. Any other view would make the rule futile. The words ‘new case’ have been understood to mean ‘new set of ideas’ : Dornan v. J.W. Ellis and Co. Ltd. [[1962] 1 All ER 303 (CA)] This also seems to us to be a reasonable view to take. No amendment will be allowed to introduce a new set of ideas to the prejudice of any right acquired by any party by lapse of time.”*

*Again in Ganga Bai v. Vijay Kumar [(1974) 2 SCC 393] this Court held : (SCC p. 399, para 22)*

*“The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the court.”*

*“4. It is clear from the foregoing summary of the main rules of pleadings that provisions for the amendment of pleadings, subject to such terms as to costs and giving of all parties concerned necessary opportunities to meet exact situations resulting from amendments, are intended for promoting the ends of justice and not for defeating them. Even if a party or its counsel is inefficient in setting out its case initially the shortcoming can certainly be removed generally by appropriate steps taken by a party which must no doubt pay costs for the inconvenience or expense caused to the other side from its omissions. The error is not incapable of being rectified so long as remedial steps do not unjustifiably injure rights accrued.”.....”*



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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.*

*38. Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings.”*

16. In addition, the Apex Court in Life Insurance Corporation of India v. Sanjeev Builders Private Limited, (2022) 16 SCC 1, after analysing several case laws has summarised the law regarding amendment of pleadings as under:-

*“71. Our final conclusions may be summed up thus:*

*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 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*



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*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] .)”*

17. Having considered the submissions of the learned counsels for the parties and upon a careful examination of the pleadings and material placed on record, this Court is of the view that the amendments sought by the Plaintiff deserve to be allowed. It is evident that the necessity for the present amendment arose only after the filing of the Written Statements, wherein, according to the Plaintiff, the Defendants disclosed the existence of multiple subsequent Wills, registered Sale Deeds, an Agreement to Sell, a Relinquishment Deed, an alleged oral family settlement, a Memorandum of Understanding, and mutation proceedings pertaining to the estate of Late Smt. Darshan Kaur for the first time. These disclosures have materially expanded the factual matrix of the dispute and have a direct bearing on the core controversy relating to succession, entitlement, and partition of the estate of Late Smt. Darshan Kaur. At the time of filing of the original Plaint, the Plaintiff could not have pleaded specific facts relating to these documents, transactions, and dealings, as the same were admittedly disclosed only in the Written Statements. The proposed amendments merely seek to incorporate these subsequent facts and challenge the validity of such documents on grounds of fraud, coercion, undue influence, and misrepresentation, which are intrinsically connected with and arise out of the same cause of action already pleaded in the Suit.

18. This Court finds merit in the contention of the Plaintiff that the amendments do not change the basic nature or character of the Suit, which



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continues to be one for declaration, partition, and consequential reliefs in respect of the estate of Late Smt. Darshan Kaur. The amendments neither introduce a new or inconsistent cause of action nor withdraw any admission made earlier by the Plaintiff. On the contrary, the amendments are necessary for effective and complete adjudication of the real controversy between the parties and to avoid multiplicity of proceedings. The objections raised by the Defendants with regard to limitation, maintainability, and alleged prior knowledge of the Plaintiff raise disputed questions of fact and law, which cannot be conclusively determined at the stage of deciding an application under Order VI Rule 17 CPC and are left open to be considered at the appropriate stage of trial. Since issues have not yet been framed and the trial has not commenced, the proviso to Order VI Rule 17 CPC is not attracted. Any prejudice, if at all, caused to the Defendants by allowing the amendment can be adequately addressed by granting them liberty to file a replication.

19. The objection regarding Order II Rule 2 of the CPC are also not sustainable in view of the law laid down by the Apex Court in Life Insurance Corporation of India (supra) wherein the Apex Court has observed as under:

*“51. In the light of the principles discussed and the law laid down by the Constitution Bench as also the other decisions discussed above, we are of the view that if the two suits and the relief claimed therein are based on the same cause of action then the subsequent suit will become barred under Order 2 Rule 2CPC. However, we do not find any merit in the contention raised on behalf of the appellant herein that the amendment application is liable to be rejected by applying the bar under Order 2 Rule 2CPC. Order 2*



*Rule 2CPC cannot apply to an amendment which is sought on an existing suit.*

*52. In the aforesaid context, we may refer to with approval a decision rendered by the High Court of Delhi in *Vaish Coop. Adarsh Bank Ltd. v. Geetanjali Despande* [*Vaish Coop. Adarsh Bank Ltd. v. Geetanjali Despande*, 2003 SCC OnLine Del 41 : (2003) 102 DLT 570] . Paras 17 and 18, respectively, indicate that the bar under Order 2 Rule 2CPC is only for a subsequent suit. These paras read as under : (SCC OnLine Del)*

*“17. Reverting to the preliminary objections raised by the appellant against the maintainability of the application for amendment, one would come across with a peculiar plea of proposed amendment being barred under Order 2 Rule 2CPC. General rule enacted under Order 2 Rule 2(1)CPC is that every suit must include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action. Order 2 Rule 2(2) precludes a subsequent suit on any part of claim, which had been omitted or intentionally relinquished by the plaintiff in an earlier suit based on the same cause of action. Similarly, where the plaintiff is entitled to more than one relief in respect of the same cause of action but omits, except with the leave of the court, to sue for all such reliefs, he is debarred in view of Order 2 Rule 2(3)CPC from suing afterwards for any relief so omitted.*

*18. A plea of bar under Order 2 Rule 2CPC is maintainable only if the defendant makes out (i) that the cause of action of the second suit is the same on which the previous suit was based, (ii) that in respect of that cause of action, the plaintiff*



*was entitled to more than one relief and (iii) that the plaintiff without leave obtained from the Court omitted to sue earlier for the relief for which the second suit is filed. (See Gurbux Singh v. Bhooralal [Gurbux Singh v. Bhooralal, 1964 SCC OnLine SC 101 : AIR 1964 SC 1810] .) Clearly, Order 2 Rule 2CPC enacts a rule barring a second suit in the situation indicated above. Identity of cause of action in the former and subsequent suits is essential before the bar contemplated under Order 2 Rule 2CPC is set to operate. Thus, where the claim or reliefs in the second suit are based on a distinct cause of action, Order 2 Rule 2CPC would have no application. Order 2 Rule 2CPC 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.”(emphasis supplied)”*

20. In view of the above, this Court is satisfied that the proposed amendments are *bona fide* and are required for proper adjudication of the present Suit.
21. Accordingly, the application is allowed.
22. Plaintiff is permitted to amend his Plaint in terms of the proposed amendments annexed to the application.
23. Let the amended Plaint be taken on record.
24. The Defendants are at liberty to file Written Statement(s) to the amended portion of the Plaint within the time prescribed under the Delhi High Court (Original Side) Rules, 2018.



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25. The Application is disposed of.

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26. List before the learned Joint Registrar on 25.02.2026.

**SUBRAMONIUM PRASAD, J**

**JANUARY 14, 2026**

*Rahul*