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

+ **CS(OS) 1789/2006**

SUNITA REKHI AND ANR.

..... Plaintiffs

Through: Mr. T.K. Ganju, Sr. Adv. with Mr.
Aquib Ali, Adv.

Versus

Y.D. PURI AND ORS.

..... Defendants

Through: Mr. Rajesh Rawal, Adv. for D-2,4&5.
Mr. Mohit Chaudhary, Adv. for D-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **01.05.2017**

1. The matter is listed in pursuance to report dated 12th April, 2017 of the Commissioner appointed to record evidence.
2. It is informed that pursuant to the order dated 18th January, 2017, the parties appeared before the Commissioner on 6th March, 2017 when the date of 12th April, 2017 was fixed for recording of the evidence of the plaintiffs.
3. On 12th April, 2017, the plaintiffs sought to amend the affidavit by way of examination-in-chief earlier filed of the plaintiffs.
4. The counsel for the defendants no.2,4&5 and the counsel for the defendant no.3 opposed the same contending that there was sufficient time available to the plaintiffs to file amended affidavit.
5. Resultantly, the Commissioner ordered the matter to be placed before this Court.
6. The senior counsel for the plaintiffs fairly states that there was some neglect in filing the affidavit. He otherwise states that the plaintiffs were present before the Commissioner and it is not as if the plaintiffs had refused to lead oral evidence.



7. The counsel for the defendants no.2,4&5 states that the plaintiffs have since served the defendants with advance copy of additional affidavit and which pertains to evidence beyond which amendment was allowed.

8. The counsel for the defendant no.3 for the sake of expediency states that the plaintiffs be now permitted to lead evidence as per the affidavit earlier filed in addition to the additional affidavit imposing conditions that plaintiffs will not take any further adjournment.

9. I am of the view that the principles as apply to amendment of pleadings will not apply to amendment of affidavits by way of evidence. The counsel for defendants no.2,4&5 on enquiry states that the deposition in the additional affidavit is subject matter of suit. Resultantly, the additional affidavit stated to have been filed is permitted to be taken on record and the parties are relegated to evidence before the Commissioner but on the condition that the plaintiff will not take adjournments on any ground whatsoever, at least for recording of her own statement.

10. It is also clarified that the plaintiffs, besides examining herself, shall also be entitled to summon the records from the Land & Development Office and shall be entitled to examine one other witness viz. Rajender Sehgal by filing the affidavit by way of examination-in-chief and producing the said witness as and when required at her own responsibility.

11. The affidavit by way of examination-in-chief of Mr. Rajender Sehgal be also supplied to the counsels for the defendants before the recording of evidence of the plaintiff commences.

RAJIV SAHAI ENDLAW, J

MAY 01, 2017

‘gsr’..

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