



2025:DHC:6481-DB



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

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*Judgment reserved on: 29.07.2025**Judgment pronounced on: 06.08.2025*

+ FAO(OS) 117/2024, CM APPL. 48772/2024, CM APPL. 48773/2024, CM APPL. 48774/2024 & CM APPL. 48775/2024

JITENDARJIT SINGH AHLUWALIA .....Appellant

Through: Mr. Aseem Chaturvedi, Mr. Shivank Diddi & Mr. Anuj Shrotriya, Advs.

versus

SURRINDERJIT SINGH AHLUWALIA & ORS.

.....Respondents

Through: Mr. Chetan Lokur, Advocate for R-1 and R-2.

Ms. Kanika Agnihotri and Mr. Sachin Sharma, Advs. for R-3.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

### **J U D G M E N T**

#### **ANIL KSHETARPAL, J.**

1. Through the present Appeal filed under Section 10 of the Delhi High Court Act, 1966, the Appellant/Defendant No.1 assails the correctness of the impugned order dated 14.05.2024 passed by the learned Single Judge in I.A. No. 5052/2019, whereby an application filed by the Appellant under Order VI Rule 17 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'], in Civil Suit (OS) No. 1155/2015 titled as *Surrinderjeet Singh Ahluwalia & Anr. v. Jitendarjit Singh Ahluwalia & Anr.* [hereinafter referred to as 'the



Civil Suit’]. *Vide* the impugned order, the learned Single judge declined the Appellant’s prayer to amend his written statement dated 09.10.2015 in a suit for partition, declaration, permanent injunction and rendition of accounts pending adjudication before the learned Single Judge.

2. Flat no. B-50C, Second Floor, Gangotri Enclave, Alaknanda, New Delhi is the ‘Suit Property’. As per the case set up by the Respondent Nos.1 & 2/ Plaintiffs, the suit property was owned and possessed by their late father, Mr. Bhupinder Singh Ahluwalia, who was survived by three sons and a daughter namely Mr. Surrinderjit Singh Ahluwalia (Respondent No.1/Plaintiff No.1), Mr. Narenderjit Singh Ahluwalia (Respondent No.2/Plaintiff No.2), Mr. Jitendarjit Singh Ahluwalia (Appellant/Defendant No.1) and Mrs. Sushil Ahluwalia Gopal Singh (Respondent No.3/Defendant No.2) respectively. The case of Respondent Nos.1 & 2 before the learned Single Judge was that their father, late Mr. Bhupinder Singh Ahluwalia purchased the suit property in the year 1986. Mrs. Mohini Ahluwalia, mother of the Parties, pre-deceased her husband late Mr. Bhupinder Singh Ahluwalia.

3. The suit was contested by the Appellant as well as Respondent No.3/Defendant No.2 while contending that late Mrs. Mohini Ahluwalia was the exclusive owner of the suit property by virtue of a registered conveyance deed executed in her favour on 03.12.2001 by Delhi Development Authority (DDA). Furthermore, in Paragraph 13 of the preliminary objections, the Appellant categorically stated that the suit property was sold in his favour by his mother by way of an



oral Agreement to Sell and in consideration, thereof, he made payments by means of fixed deposits and other account transfers in her favour.

4. Upon appreciation of pleadings, *vide* Order dated 29.03.2016, the learned Single Judge framed the issues for its consideration and as of date the Respondent Nos.1 & 2 are leading their evidence. On 21.02.2024, the learned Single judge *prima facie* made observations that the suit is liable to be decreed under Order XII Rule 6 of the CPC. Thereafter, the Appellant filed an application bearing I.A. No. 5052/2019 dated 16.02.2019, seeking leave to amend the written statement in view of a subsequent discovery of a Will dated 20.09.2009, while searching old record by the Respondent No.3/Defendant No.2. The Appellant alleged that the Will, with regard to the suit property, has been executed by their late mother Mrs. Mohini Ahluwalia in his favour. This application was dismissed by the learned Single Judge.

5. This Bench has heard the learned counsel representing the Parties at length and, with their able assistance, has perused the paper book.

6. Learned counsel representing the Appellant has filed written submissions along with a list of judgments relied upon. At the outset, it is observed that the question of maintainability of the present Appeal is debatable. However, this Bench considers it appropriate to hear the Appeal on merits in order to expeditiously dispose of the matter, while leaving the question of maintainability open.



7. Learned counsel representing the Appellant contends that the Will sought to be produced via the amendment application, has a material bearing on the adjudication of the Civil Suit. It is submitted that the Will clearly establishes that Mrs. Mohini Ahluwalia was the exclusive owner of the suit property. Moreover, it is also contended that there was no delay in filing the application seeking amendment, as the application was filed immediately following its discovery by the Respondent No.3 while searching the old records. It is further contended that the proceedings in the Civil Suit are at an initial stage, as the cross-examination of Respondent No.1 is underway.

8. *Per-contra*, the learned counsel representing the Respondent Nos.1 & 2 while defending the impugned order submits that the trial of the Civil Suit has already begun. Consequently, in view of the proviso to Order VI Rule 17 of the CPC, the amendment application was correctly dismissed by the learned Single Judge.

9. It is pertinent to highlight that, on 05.09.2018, the Appellant and Respondent No.2 stated that Mrs. Mohini Ahluwalia did not leave behind any Will. As already noticed, the Civil Suit has been pending for the last 10 years, and the issues were framed on 29.03.2016. In the present case, the crucial issue requiring adjudication pertains to the identity of the actual owner of the suit property. In the said background, if Mr. Bhupinder Singh Ahluwalia was indeed the owner of the suit property, the same would stand inherited by his four Class-I heirs, namely three sons and a daughter. However, it has been the consistent stand of the Appellant that it is Mrs. Mohini Ahluwalia who was the owner of the suit property and not Mr. Bhupinder Singh



Ahluwalia. Accordingly, the Will dated 20.09.2009, sought to be propounded by the Appellant and Respondent No.2, would not be of much relevance, since the onus lies on them to prove that Mrs. Mohini Ahluwalia was indeed the owner of the suit property. Moreover, in the present suit, inheritance of Mrs. Mohini Ahluwalia estate is not in dispute.

10. At the cost of repetition, the Respondent Nos.1 and 2 claim that Mr. Bhupinder Singh Ahluwalia was the exclusive owner of the property, and hence they are entitled to seek partition being his Class-I heirs.

11. Hence, the alleged Will sought to be propounded would not be of much relevance.

12. As per the *proviso* to order VI Rule 17 of the CPC, amendment of pleadings is generally not permitted unless the Parties filing such application has established that there was due diligence on their end and despite being so, the relief sought *vide* the Application could not have been raised earlier. Since this Court has found that the proposed amendment would not be of any relevance for the decision of the dispute arising in the Civil Suit, hence, the question of delay is not required to be examined.

13. Learned counsel representing the Appellant is not correctly contending that the proceedings of the Civil Suit remain at the initial stage because the issues were framed on 29.03.2016.

14. Keeping in view the aforesaid discussion, finding no merit, the Appeal is dismissed.



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15. However, the suit shall be decided uninfluenced with the observations made in this order.

16. Accordingly, all pending applications, if any, are also disposed of.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**  
**AUGUST 06, 2025/sp/hr**