

(2026) 07 DEL CK 0238

In the Delhi High Court, Principal Bench, New Delhi

Case No : CS(OS) 1789/2006, IA No.1661/2024 & I.A. No. 40338/2024

Sunita Rekhi & Anr.

APPELLANT

Vs

Y.D. Puri & Ors.

RESPONDENT

Date of Decision : 07-07-2026

Acts Referred:

Code of Civil Procedure, 1908 — Order VI Rule 17, 6 Rule 17

Citation : (2026) 07 DEL CK 0238

Hon'ble Judges : Sachin Datta, J

Bench : Single Bench

Advocate : Mr. T. K. Ganju, Sr. Advocate along with Ms. Amreen Khaliq and Ms. Jayalakhmi, Mr. Rajesh Rawal, Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Mr. Lakshay Yadav, Ms. Aarushi Suri, Ms. Rita Mehra

Final Decision : Dismissed

Judgement

SACHIN DATTA, J. (ORAL)

I.A. No. 20461/2025 (under Order VI Rule 17 on behalf of the Defendant Nos.3 seeking necessary amendment in his written statement and placing on record the corresponding additional document(s) in terms of orders dated 22.05.2024 and 08.07.2025)

1. The present suit was instituted by the plaintiffs seeking partition, declaration and permanent injunction in respect of certain immovable properties, namely property bearing No. 10-A, Ring Road, Lajpat Nagar-IV, New Delhi, Raj Cinema situated at Gurgaon and adjoining land measuring approximately 15 bighas. The plaintiffs claim that the said properties constitute joint family properties in which they have a share. The suit has remained pending since the year 2006 and is presently at an advanced stage of trial.

2. The present application has been filed on behalf of the applicant/ defendant no.3 under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") seeking amendment of his written statement and placing

on record certain additional documents.

3. It is the case of the applicant/ defendant no.3 that subsequent to the filing of his original written statement in 2007, certain material developments have taken place or have come to the knowledge of the applicant/ defendant no.3, which have a direct bearing on the rights of the parties and, therefore, deserve to be brought on record.

4. The learned counsel for the applicant/ defendant no.3 seeks to plead that the defendant no.4 (one of the parties to a Memorandum of Settlement dated 23.11.2018), through his conduct during the course of the proceedings, has resiled from the said Settlement, thereby necessitating incorporation of certain subsequent events in the written statement.

5. It is further contended by the learned counsel for the applicant/ defendant no.3 that the subsequent events that have come to knowledge of the applicant, including the Memorandum of Settlement dated 23.11.2018, the holographic Will dated 21.02.2003 with the codicil dated 26.08.2006, and the institution of probate proceedings in respect thereof, reinforce his case that he is the exclusive owner of the suit property (i.e., property bearing no. 10-A, Ring Road, Lajpat Nagar – IV, New Delhi - 110024) and that no other party has any right, title or interest therein.

6. Per contra, learned counsel appearing for the non-applicants oppose the said application and submit that the present suit was instituted in the year 2006 and the present application has been filed after an inordinate delay. It is further submitted that some of the documents, including defendant no.1's Will dated 21.02.2003, were always within the knowledge of defendant no.3, and do not *per se* constitute subsequent developments.

7. Further, learned counsel for the non-applicants seek to place reliance on the order dated 18.01.2017 passed in the present proceedings to contend that the applicant/defendant no.3 had adequate opportunity to place the said documents/ averments on record by way of a replication to the amended written statements of defendant nos. 4 and 5, but failed to do so during the said period. The said order, *inter alia*, records as under:

8. It is further submitted by the learned counsel for the non-applicants that the applicant/ defendant no.3 seeks to rely upon additional documents and pleadings and that permitting such an application at this stage would only delay the ongoing trial.

9. It is further submitted by the learned counsel for the non-applicants that the order dated 02.12.2015, whereby the application filed by defendant no.2 seeking amendment of her written statement was partly allowed, was challenged by the applicant/defendant no.3 before the Division Bench by way of FAO(OS) No.311/2016.

10. During the pendency of the said appeal, defendant nos. 2, 3, 4 and 5

executed a Memorandum of Settlement dated 23.11.2018. Pursuant thereto, the aforesaid parties jointly filed an I.A., praying the appeal to be disposed of in terms of the said Memorandum of Settlement.

11. The Division Bench, *vide* order dated 21.10.2019, permitted withdrawal of the appeal along with aforesaid I.A., while granting liberty to approach the learned Single Judge in accordance with law for placing the Memorandum of Settlement dated 23.11.2018 on record. It is the case of the non-applicants that, despite the aforesaid liberty, no steps were taken by the applicant to place the said Memorandum of Settlement on record at the relevant stage.

12. It is further the case of the applicant/defendant no.3 that the documents sought to be relied upon have already been brought on record during the course of evidence and stand exhibited. It is submitted that the present application has been preferred only to incorporate the corresponding pleadings in the written statement along with the documents so as to enable the applicant to place reliance upon the said documents.

13. Having carefully considered the rival submissions of the respective counsel, this Court is not inclined to allow the present application. The reasons for same are as under:

(i) The legal position is well settled that, in terms of Order VI Rule 17 of the CPC, although the Court is empowered to permit amendment of pleadings at any stage of the proceedings, however, once the trial has commenced, such amendment can be allowed only if the Court is satisfied that, despite exercising due diligence, the party could not have raised the matter before the commencement of the trial. In **North Eastern Railway Administration, Gorakhpur. v. Bhagwan Das**, (2008) 8 SCC 511, the Supreme Court has observed as under:

"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] .)"

In the present case, as rightly contended by learned counsel for the non-applicants, the applicant/defendant No. 3 did not even avail of the opportunity to file a replication to the amended written statements filed by defendant Nos. 4 and 5. Such an opportunity was expressly granted to the applicant/defendant No. 3 *vide* order dated 18.01.2017 passed by this Court in the present proceedings. Such lack of diligence cannot be cured by way of filing a belated application

under Order VI Rule 17 of the CPC.

(ii) It is the applicant's/ defendant no.3's own case that the documents which he is desirous to place on record by way of the proposed amendment have already been exhibited during the course of trial, and form part of the record. Given the same, and given that the trial is at advanced stage, this Court is not persuaded to set the clock back by several years, which would be the inevitable consequence of allowing the present application.

(iii) Moreover, no prejudice would be caused to the applicant/defendant No. 3 if it is not permitted to amend its written statement, particularly when the documents with which the applicant/defendant No. 3 is concerned have already been exhibited. Furthermore, the proposed amendment does not alter the substratum/ foundation of the applicant's case, on the basis of which it asserts rights in respect of the property in question.

(iv) The present application is evidently belated and inherently prejudicial to the other parties, especially considering that the recording of evidence has been underway since 2007. In these circumstances, it would not be in the interest of justice if the instant application is allowed at this stage.

14. In the circumstances, the present application stands dismissed.

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15. List along with pending applications before the Joint Registrar (Judicial) on 12.08.2026 for necessary directions.