

CMPMO No.174 of 2006.

31.5.2007. Present: Mr. K.D. Sood, Advocate, for the petitioner.

Ms. Bhavana Dutta, Advocate, for respondent
No.1.

On being pointed out by the learned counsel for respondent No.1 as well as the Court that the application for amendment of the plaint filed under Order 6 Rule 17 as well as the amended plaint itself is defective inasmuch as the relief for declaration stood deleted even though the relief for possession was inserted/added, Mr. K.D. Sood, learned counsel appearing for the petitioner by referring to the aforesaid inadvertent mistake on the part of the plaintiff-petitioner sought leave of this Court to withdraw this petition from this Court as well as the amendment application filed by the petitioner-plaintiff in the trial Court with liberty to the petitioner-plaintiff to file a fresh amendment application in the suit.

After hearing the learned counsel for the parties, I allow the aforesaid oral prayer of Mr. K.D. Sood and while dismissing the present petition as withdrawn, also dismiss the amendment application filed by the petitioner-plaintiff in the trial Court as withdrawn and permit the petitioner-plaintiff to file a fresh amendment application in the trial Court in the pending suit which shall be heard and disposed of by the learned trial Court on its merits and in accordance with law, uninfluenced in any manner by the rejection of the earlier amendment application vide the impugned order dated 31st May, 2006 passed by it. This is

subject to the petitioner paying to respondent-defendant No.1
Rs.2,000/- as costs.

CMP No.347 of 2006.

In view of the dismissal of the main petition, this
application is also dismissed. Interim order passed on 4th July,
2006 shall stand vacated.

31st May, 2007.
(tr)

(V.K. Gupta), C.J.