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

+ **FAO(OS) 390/2013 & CMs 13274-75/2013**

**RAJESH SACHDEVA**

..... Appellant

Through Mr.Bhagat Singh, Advocate

versus

**BHARAT BUILDTECH P LTD & ANR**

..... Respondents

Through Nemo

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

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**30.08.2013**

The appellant is aggrieved by an order of the learned Single Judge allowing an application for amendment of the suit. It is contended that the amendment in question has resulted in prejudice, since a new prayer has been permitted which is contrary to provisions of Order 2 Rule 2 CPC.

Learned counsel for the appellant argues that the amendment is time barred and ought not to have been allowed having regard to the facts and circumstances.

The plaintiff had sought for various reliefs including mandatory injunction directing the defendants to sign and execute a tripartite agreement in accordance with the draft. The said agreement


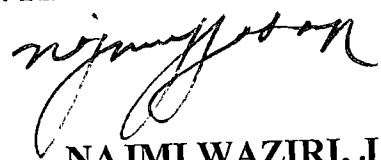
is in existence. In the original suit, the plaintiff had mentioned about certain receipts dated 26<sup>th</sup> August, 2007 and further stated that on 1<sup>st</sup> September, 2007, the cause of action arose when the defendant including the present appellant refused to execute the agreement to sell. Another date 11<sup>th</sup> September, 2002 was also mentioned.

The impugned order revealed that the learned Single Judge took into account the substance of the pleadings, specially the averments made in paragraph 23 of the plaint to state that the receipt has been described and consequently, the claim for amendment to incorporate the receipt and describe it in the relief clause did not introduce any new relief but merely sought to expand the existing pleadings and seek supplementary relief on that basis.

This Court is of the opinion that the appeal is misconceived and that the arguments in its support have no merit.

The question of applicability of Order 2 Rule 2 CPC does not arise in the circumstances which have presented.

Likewise, the question of claim being time barred is without any merit. The appeal is accordingly dismissed.

  
S. RAVINDRA BHAT, J  
  
NAJMI WAZIRI, J

AUGUST 30, 2013  
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