

**11.11.2022**

Present : Shri Praveen Kumar Sharma – Ld. Counsel for the plaintiff.  
Ms. Mehvish Khan – Ld. Counsel for the LR's of defendant no. 2  
who files her vakalatnama today.  
Shri Shashank Upadhyay – Ld. Counsel for Defendant no. 1, 3  
& 4.

An application under Order 1 Rule 10 CPC has been filed by the plaintiff but no reply to the same is intended to be filed by defendant no. 1, 3 & 4. Arguments heard.

It is submitted that initially the suit was filed by the plaintiff against defendant no. 1 company and defendant no. 2 to 4 being the Directors of defendant no. 1 company. It is submitted that it was defendant no. 2 who had taken the loan which is the subject matter of the present suit, in his personal capacity and the said loan amount was transferred to his personal loan account, though the promissory note signed by him was bearing the seal of defendant no. 1 company.

On 09.09.22, this court has raised a query to the Ld. Counsel for the plaintiff and he was asked to clarify whether the loan was extended to the company or defendant no. 2 in his personal capacity. It is pursuant to the said order that the present application has been filed which is duly supported by the affidavit of the plaintiff.

In view of the above contention as made in the present application, the same is allowed and the names of defendants no. 1, 3 & 4 are deleted from the array of the parties.

The suit shall proceed only against defendant no. 2 through his LR's.

Amended memo of parties has already been filed by the plaintiff.  
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It has been validly objected by Ld. Counsel for the defendant that once it is stated by the plaintiff that the loan was given in a personal capacity and the defendant no. 2, the only defendant in the suit now, is a

resident of Noida, UP, this court does not have the territorial jurisdiction to try the present suit. Further, once it is admitted that the loan was given in personal capacity, it ceases to be a commercial transaction and therefore, is not covered as such, under Section 2 of the Commercial Court Act.

Ld. Counsel for the plaintiff seeks time to address arguments on these issues. At request, put up for consideration on 22.11.2022.

(Sanjay Sharma-I)  
District Judge (Commercial Court-01)  
East/Karkardooma Courts-11.11.2022