

28.03.2023

**ORDER**

Vide this order, the Court shall dispose off the application of applicant /proposed defendant Sh. Yashpal Rawat under Order I Rule 10 r/w Sec. 151 CPC seeking his impleadment in the array of parties.

**Following arguments were submitted on behalf of applicant/proposed defendant :**

- a) Applicant through his tenant i.e. defendant no.2 has come to know that the present suit is pending before this Hon'ble Court. Plaintiff mischievously and deliberately did not make applicant a party to the suit despite having knowledge of ownership of applicant in the suit property bearing no.X97, X-Block, Gali No.13, Brahmipuri, Shahdara, Delhi-110053.
- b) Applicant is the absolute owner of the suit property for having purchased the same from its actual owner after verifying all the documents, in the year 2018 vide virtue of registered GPA.
- c) Applicant being the owner of the suit property is a necessary party to the suit in absence of whose the present suit would not be decided effectually and finally.
- d) The present application is bonafide and has been preferred to avoid multiplicity of litigation in future.
- e) The application may kindly be allowed, in the interest of justice.

**Following arguments were submitted on behalf of plaintiff :**

- a) The present application is based on false, fabricated and concocted facts. Applicant has not placed true and correct information and suppressed and concealed material facts.
- b) Applicant has filed the present application with the sole intention to blackmail and harass plaintiff for undue financial gain.
- c) The present application is not maintainable being time barred. Applicant was having clear knowledge of the present suit since service of summons upon defendant no.2 in August, 2019 but applicant filed the present application only on 18.11.2022.
- d) Applicant has no locus or right to approach this Hon'ble Court for seeking relief as claimed against plaintiff. Applicant has nothing to do in the present matter as the entire dispute is between plaintiff and defendants. If applicant has any grievance against plaintiff or previous owner of the suit property then he should have filed proper suit against them.
- e) Applicant has claimed to be the owner of the suit property but has not filed any single document with respect to his claim.
- f) The present application has been filed by the applicant only to buy time and to delay the matter.
- g) The application may kindly be dismissed in the interest of justice.

### **Findings of the Court**

Order I Rule 10 CPC provides that for determining the question whether or not a particular party is a necessary party to a proceeding, two tests have been laid down :

- (i) there must be a right to some relief against such party in respect of the matter involved in the proceeding in question ; and
- (ii) it should not be possible to pass an effective decree in absence of such a party.

Plaintiff has filed the present suit against defendants for specific performance, declaration, possession, arrears of rent, mesne profit/damages, permanent and mandatory injunction. On perusal of record, it is revealed that applicant/proposed defendant has not filed any document to prove that he is the absolute owner of the suit property for having purchased the same from its actual owner and that this fact is within the knowledge of plaintiff. In fact, applicant/proposed defendant has not even disclosed the name of the actual owner from whom he allegedly purchased the suit property. Though, in the written statement, defendant no.2 has supported the version of applicant, however defendant no.2 himself has not filed any rent agreement executed with applicant or any title documents executed in favour of applicant to prove his ownership in the suit property. Also, the nature of reliefs sought by plaintiff is such that joinder of applicant in the array of parties without there being any basis appears to be not necessary.

In view of the above, the aforesaid application is dismissed being devoid of any merit.

**The application is disposed off accordingly.**

MONA TARDI KERKETTA  
ADJ-01/NE/KKD/DELHI  
28.03.2023 pk