

CS DJ 2008/16

MADHU MITTAL AND ORS Vs. SONU AGGARWAL @ SURINDER  
MOHAN SINGHAL AND ORS

17.01.2023

Present: Sh. S. S. Saini, Ld. counsel for all the plaintiffs.

Sh. R. K. Rathore, Ld. Counsel for the defendant No.1  
alongwith the defendant no.1.

DW-1 has been examined, cross-examined and discharged.

Ld. Counsel for the defendant No.1 has pointed out that an application u/o 1 Rule 10 of the CPC for impleadment of Mr. Manav Mittal is pending disposal.

Ld. Counsel for the plaintiffs has addressed the arguments on the aforesaid application of the defendants without filing any reply thereto.

The defendants in the said application have stated that the plaintiff No.1 is the mother and the plaintiffs No.2 & 3 are the daughters of the plaintiff No.1. It has been further stated that the present suit has been instituted by the plaintiffs for recovery of the amount of Rs.53,53,050/- as allegedly the loan amount of Rs.50 lacs was given by the plaintiffs to the defendant No.1. In the abovesaid application, the defendants have further stated that the loan of Rs.20 lacs was given by Mr. Manav Mittal who happens to be the son of the plaintiff No.1 to the defendant No.1 as he wanted to carry out some business in partnership with the defendant No.1.

Ld. Counsel for the plaintiffs has countered the abovesaid submissions of the defendants on the ground that the loan was given by

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the plaintiffs to the defendant No.1 and the onus to prove this fact has been placed upon the plaintiffs. It has been further argued that in order to resolve the controversy involved in the present suit, the impleadment of Mr. Manav Mittal is not necessary.

I have carefully gone through the material available on record and heard the rival submissions of both the ld. Counsels for the parties.

As stated herein above, the present suit has been instituted by the plaintiffs for recovery of Rs.53,53,050/- on the ground that the plaintiffs advanced a loan of Rs.50 lacs, the details of which have been given by plaintiffs in para No.7 of the plaint to the defendant No.1. Issues in the present suit were framed on 15.10.2018. Naturally, the onus to prove the loan amount has been placed upon the plaintiffs. Needless to mention that in order to obtain a decree from the court, the plaintiffs are bound to prove that the alleged loan of Rs.50 lacs was given by the plaintiffs to the defendant No.1.

Now, in the present application, the defendants have taken up the plea that Mr. Manav Mittal, the son of the plaintiff No.1, had given and invested an amount of Rs.20 lacs in the partnership business with the defendant No.1. The plaintiffs do not want the impleadment of Mr. Manav Mittal as a necessary party. Since, the onus to prove the grant of the loan by the plaintiffs to the defendant No.1 has been placed upon the plaintiffs, I am of the opinion that the impleadment of Mr. Manav Mittal is not necessary, in the facts and circumstances of the present

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case. The Written Statement has been filed in the year 2017. No such application was filed earlier by the defendants.

As such, **the abovesaid application u/o 1 Rule 10 of the CPC filed by the defendants for impleadment of Mr. Manav Mittal is hereby dismissed.**

However, ld. Counsel for the defendant No.1 states that he wants to summon Mr. Manav Mittal as a witness on behalf of the defendants. The said submission is not objected to by the ld. Counsel for the plaintiffs. As such, the defendants shall be at liberty to summon Mr. Manav Mittal as a witness **on filing of PF and depositing of diet money for the next date.**

Now, to come up for remaining DE on **22.03.2023.**

(Raj Kumar)  
ADJ-02/ North/ Rohini Court  
Delhi/17.01.2023