

CS DJ 546/19  
AL MAHA FOODS INTERNATIONAL PVT LTD Vs.  
SOMVEER & Ors.

27.09.2022

Present : Sh. Umesh Gulati, Ld. Counsel for the plaintiff.  
Sh. Rajeev Kumar Ghawana, Ld. Counsel for  
defendant no. 2 to 5.  
Proxy Counsel for defendant no. 6.  
Sh. S. Khan, Ld. Counsel for defendant no. 7 along  
with Sh. Atul Kumar, Branch-Manager in person.

Perusal of the record shows that vide order dated 25.01.2020, defendant no. 1 was ordered to be served by way of affixation, however, owing to onset of covid-19 pandemic, the process could not be complied with. An opportunity is sought on behalf of plaintiff to take fresh steps to serve defendant no. 1.

Request allowed. Let defendant no. 1 be served by way of affixation in case of refusal/non-availability/premises found locked. **Process server is directed to serve the summon through affixation in case of refusal / non-availability/ premises found locked after recording his satisfaction regarding the correctness of the address. Process Server is also directed that he shall take clear photographs of affixation if the same is done and shall appear for his statement on the next date of hearing. AR of the plaintiff is directed to accompany the process server at the time of service.**

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At this stage, Ld. Counsel for defendant no. 7 has pressed his application under Order 7 Rule 11 r/w Order 1 Rule 10 and with Section 151 CPC. Reply to the said application filed on behalf of plaintiff today. Copy supplied.

Arguments heard. At the outset, it is submitted by Ld. Counsel for defendant no. 7 that defendant no. 7 is not the necessary and proper party in the present case and that it had already freezed account of defendant no. 1 on receiving request of the plaintiff. It is further submitted that defendant no. 7 undertakes to not release the freezed amount without an order of this Court, as such, defendant no. 7 be deleted from the array of parties.

In response to the above-mentioned submissions, Ld. Counsel for plaintiff submits that defendant no. 7 is impleaded as proforma defendant as substantial amount due to the plaintiff in the present suit is freezed by defendant no. 7. As such, it is prayed that defendant no. 7 should not be deleted from the array of parties. Ld. Counsel for defendant no. 2 to 5 also submit that defendant no. 7 is necessary and proper party for just decision of the case.

Brief factual matrix of the case as per plaintiff is that defendant no. 1 while working with plaintiff had allegedly stolen a cheque bearing no. 030505 of HDFC Bank from the premises of the plaintiff without its consent and later on put his forged

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signature and encashed the amount of Rs. 6,00,000/- in his own personal bank account maintained with Central Bank of India, Badarpur Branch i.e. defendant no. 7. The said account got freezed by defendant no. 7 on receipt of intimation from plaintiff and registration of separate FIR to that effect.

Keeping in view the fact that the amount allegedly obtained by defendant no. 1 from plaintiff is lying with defendant no. 7, the prayer of defendant no. 7 that it is neither the necessary and proper party is without any merit. As such, **application under Order 7 Rule 11 r/w Order 1 Rule 10 and Section 151 CPC moved on behalf of defendant no. 7 stands dismissed.**

List the matter for the service of defendant no. 1 for **08.12.2022. Steps be taken by the plaintiff within a week from today.**

(Akash Jain)  
ADJ-1 (South East) Saket Court  
New Delhi/27.09.2022