

4 CS 2632/24
Mohd Gayyur Vs. Mohd Rizwan and Ors

02.12.2024
AT 10:33 AM

Present: Ms. Nikita, Ld. Counsel for plaintiff along with
plaintiff in person

An application under Order VI Rule 17 r/w Section 151 CPC, application under Order I Rule 10 and Section 151 CPC, amended memo of parties and amended plaint filed on behalf of plaintiff.

Heard.

Plaintiff by way of application under Order I Rule 10 and Section 151 CPC want to implead DUSIB as defendant No.9 in the present matter. It is submitted by the plaintiff that proposed D-9 is a land owning Agency who has allotted the properties in question (V-11 and V-12) to one Mohd. Evaj Khan and Malkhan Singh respectively on license basis. It is further submitted that Mohd. Shafiq and Bilkish Begum have purchased the suit properties from Mohd. Evaj Khan and Malkhan Singh vide sale documents dated 09.08.1985 and 23.06.1986 respectively. It is further submitted that plaintiff is seeking partition of the properties in question being one of the LR of Mohd. Shafiq and Bilkish Begum. It is further submitted that DUSIB is a necessary party in the present suit and no effective decree can be passed in its absence.

It is settled law that plaintiff is *dominus litus*. The present suit is still at the initial stage and defendants are yet to be served.

Considering the contentions of the application, submissions and the fact that DUSIB has allotted the suit property to one Malkhan Singh on license basis, therefore, this Court is of the considered view that DUSIB is a necessary party in the present suit and no effective decree can be passed in its absence, **therefore, the present application under Order I Rule 10 and Section 151 CPC is hereby allowed and DUSIB is impleaded in the present suit as defendant No.9.**

Application is accordingly disposed of.

Amended memo of parties is taken on record.

Plaintiff by way of an application under Order VI Rule 17 r/w Section 151 CPC wants to add para No.25A and 25B and clause k in the prayer. It is submitted by Ld. Counsel for plaintiff that as D-9 has been impleaded in the present suit, therefore, the averments mentioned in the aforesaid paragraph are necessary to be added/pleaded for just and proper decision of the case. It is further submitted that the present suit is still at the initial stage and no prejudice shall be caused to the defendants, if the present application be allowed. It is further submitted that the proposed amendment shall not change the nature of suit.

Heard.

In view of the submissions, contentions made in the application and also considering that the matter is still at initial stage and no prejudice would be caused to the defendants, if the

- : 3 : -

present application be allowed, **therefore, the present application under Order VI Rule 17 r/w Section 151 CPC is hereby allowed.**

Application is accordingly disposed of.

Amended plaint is taken on record.

Heard. File perused.

Issue summons of the present suit and notice of the application under Order XXXIX Rule 1 and 2 CPC upon defendants through the concerned Ld. Principal District & Sessions Judge, on filing of PF/RC, returnable for the next date of hearing.

PF be filed within seven days.

Put up for further proceedings on **17.03.2025.**

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
02.12.2024