

12.08.2025

Order under Order 1 Rule 10 CPC

Vide this order, I shall dispose of application under Order 1 Rule 10 C.P.C read with Section 151 C.P.C moved on behalf of the applicant Rahul Choudhary @ Ram Kumar.

Arguments on the application heard.

Submissions of the Applicant

The applicant submits that he is a necessary party to the proceedings as the dispute cannot be adjudicated fairly in his absence. It is contended that the plaintiff executed an agreement to sell dated 16.11.2016 in favour of the defendant Kamal Kant Sharma and the applicant in respect of the property, and substantial part payments have already been made. In furtherance thereof, possession of part of the suit property has also allegedly been delivered to the applicant and defendant. The applicant contends that he along with defendant has filed a counterclaim for specific performance and hence, his impleadment as defendant no.3 is necessary to avoid multiplicity of proceedings.

Reply by plaintiff.

The plaintiff in reply has objected to the maintainability of the present application. It is urged that the present suit is filed against defendant no. 1 Shri Kamal Kant Sharma and defendant no. 2 Shri Ritesh Kumar on the basis of landlord-tenant relationship for possession, recovery of arrears of rent, damages/mesne profits and permanent as well as mandatory injunction in respect of the third floor of the property

bearing no. 36/7, East Punjabi Bagh, New Delhi-110026. The plaintiff contends that the alleged agreement to sell dated 16.11.2016 is forged and fabricated, and even otherwise, pertains to a cause of action distinct and separate from the one forming the subject matter of the present suit. Thus, impleadment of the applicant cannot be permitted.

Record perused.

Court observations and findings

Perusal of the plaint reveals that the suit is filed for possession and arrears of rent/damages on the basis of a tenancy relating to the third floor alone, treating the defendants as the tenants. The applicant seeks impleadment on the basis of rights claimed under an alleged agreement to sell dated 16.11.2016, which relates to ownership rights and not tenancy.

Thus, there exist two distinct causes of action:

1. The plaintiff's claim for eviction and recovery of arrears as landlord against tenant.
2. The applicant's claim for alleged specific performance of an agreement to sell.

These are independent and not interdependent issues.

It is a settled proposition that under Order I Rule 10(2) CPC, a party may be added if his presence is necessary for effective and complete adjudication of the matter in controversy. The Supreme Court in ***Kasturi v. Iyyamperumal & Ors., (2005) 6 SCC 733*** held that in a suit for specific performance of contract, a stranger to the contract cannot be allowed to be impleaded merely on the basis of an alleged agreement concerning the same property. Similarly, in ***Mumbai International Airport***

Pvt. Ltd. v. Regency Convention Centre, (2010) 7 SCC 417, it was reiterated that necessary parties are those without whom no effective decree can be passed, whereas proper parties are those whose presence may help in complete adjudication.

Further, in *Anil Kumar Singh v. Shivnath Mishra, (1995) 3 SCC 147*, it was held that a third party claiming adversely to both sides cannot be impleaded in a suit when such claim is not germane to the controversy involved.

In the present case, the plaintiff has chosen to sue the defendant Shri Kamal Kant Sharma and Shri Ritesh Kumar as her tenants. The reliefs claimed by the plaintiff can effectively be adjudicated upon between the plaintiff and defendants alone. The rights claimed by the applicant under the alleged agreement to sell belong to a distinct cause of action, which he may agitate by way of appropriate independent proceedings. His presence is not necessary for resolving the landlord–tenant dispute forming the subject matter of the present suit.

In view of the above discussions, the applicant cannot be treated as a necessary or even a proper party to the present landlord–tenant suit. His rights, if any, based on the alleged agreement to sell, may be enforced through a separate independent civil action. Accordingly, the application under Order I Rule 10 read with Section 151 CPC **stands dismissed**.

SUSHEEL BALA DAGAR
DISTRICT JUDGE-08
WEST/DELHI/12.08.2025