

IN THE COURT OF SHRI SUNIL CHOUDHARY
DISTRICT JUDGE-01 (WEST), TIS HAZARI COURTS, DELHI



Civ DJ No. 911/2025

Savitri Kalra

... Plaintiff

versus

Amit Kalra & Ors

... Defendants

ORDER
17.07.2026

1. Vide this order, this Court shall dispose of application under Order 1 Rule 10 CPC moved on behalf of defendant no.4.
2. It is averred in the application that present suit has been filed by the plaintiff against defendant no.1 & 2 on the grounds of seepage, unauthorized construction and installation of CCTV cameras in the suit property. The applicant / defendant no.4 is Resident Welfare Association (RWA) formed for welfare and coordination among resident of locality and it does not exercise any statutory authority to enforce repairs, regulate plumbing or interfere in internal construction activities of individual residential flats. Applicant had already issued letter dated 13.04.2024 to defendant no.1 & 2 requesting them to take immediate steps to rectify the seepage issue on the complaint of plaintiff. The applicant has no legal power to compel repairs inside private premises beyond such advisory communication. It is averred

that the dispute is between plaintiff and defendant no.1 & 2 and no relief is claimed against it, therefore, prayer is made for deletion of applicant from array of defendants.

3. Plaintiff has opposed the application by filing reply. It is submitted that applicant / defendant no.4 plays a significant and indispensable role in management, maintenance and regulation of common facilities as well as addressing grievances affecting the residents at large. The present dispute is not confined to private *inter se* dispute between plaintiff and defendant no.1 & 2 but has direct bearing on the safety, habitability and structural integrity of building as a whole and as such necessitating the presence of applicant / defendant no.4 for complete and effective adjudication. Applicant has itself acknowledged in its letter 13.08.2024 that issues posed a threat not only to occupants but also the structural integrity of building. The plaintiff has prayed for dismissal of the application.

4. Arguments heard. Record perused.

5. Ld. counsel for the applicant has submitted that the main grievance of the plaintiff is against the defendant no.1 & 2. The plaintiff and defendant no.1 & 2 are the occupant of the same building. The plaintiff has not claimed any relief against the applicant in the present suit. The plaintiff had made a complaint against the defendant no.1 & 2 regarding the seepage in the building, on which, the applicant had given a written notice to the defendant no.1 & 2. The role of the applicant is limited to the coordination and welfare of the residents. Therefore, the Ld. counsel for the applicant has prayed for deletion of the defendant no.4 from the array of parties.

6. Per contra, Ld. counsel for plaintiff has submitted that although there is no specific prayer against the defendant no.4, however, the defendant no.4 is under obligation for welfare of the residents including the plaintiff. The defendant no.4 is necessary and proper party and therefore, she has prayed for dismissal of the application.

ANALYSIS AND DISCUSSION

7. The present application has been filed by the defendant no.4 under 1 Rule 10 (2) CPC, which provides for striking off the party. The provision is reproduced hereunder for ready reference:

Order 1 Rule 10 CPC :

“(2) Court may strike out or add parties.—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added”.

8. The Hon’ble Supreme Court of India in case of “**Vidur Impex & Traders Pvt.Ltd.& Ors vs Tosh Apartments Pvt.Ltd.& Ors**, AIR 2012

SUPREME COURT 2925” has laid down the principles which are to be applied while considering the application under Order 1 Rule 10 CPC. Relevant para of said judgment is reproduced as under :

“36. Though there is apparent conflict in the observations made in some of the aforementioned judgments, the broad principles which should govern disposal of an application for impleadment are:

1. The Court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as plaintiff or defendant or whose presence before the Court is necessary for effective and complete adjudication of the issues involved in the suit.

2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the Court.

3. A proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made”.

9. Further, the Hon’ble Supreme Court of India in case of **“Ramesh Hiranand Kundanmal vs Municipal Corporation Of Greater Bombay & ors, (1992) 2 SSC 524** has observed as under :

“14. It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a

desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action”.

10. In case of “ **Mohinder Jeet Singh vs. BMW India Pvt. Ltd. and Others**, 2019 SCC OnLine Del 9892” Hon’ble Delhi High Court has

observed the following while considering the provision of Order 1 Rule 10 CPC :

“13. The deletion of a party as a defendant in a suit is therefore possible only upon arriving at a determination that the party is neither a necessary nor a proper party to the suit.

14. The allegations contained in the plaint in the present case must be analysed in the context of these principles. The relief sought in the plaint is for a decree against “the defendants, jointly and severally”. To this extent, it is clear that the plaintiff has sought relief against the defendants no. 4 and 5 as well. The question then is whether he has disclosed a cause of action against the said defendants, entitling him to proceed against them”.

11. The present application is to be considered keeping in mind the above principles laid down by the Hon’ble Supreme Court of India and the Hon’ble High Court of Delhi. The perusal of the plaint shows that the plaintiff has sought all the reliefs against the defendant no.1 & 2. The only pleading against the defendant no.4 is regarding the complaint made by the plaintiff to defendant no.4 against the defendant no. 1 and 2. On which, the defendant no.4 has only issued a letter to the defendant no.1 & 2. The plaintiff has filed the copy of letter issued by the defendant no. 4 against the defendant no. 1 and 2 in which the defendant no.4 has urged the defendant no.1 to address the issues mentioned in the complaint by the plaintiff.

12. The plaintiff has neither filed any document or pleaded any fact which could show the obligation of the defendant no.4 to take any action against the defendant no.1 & 2. The main grievance of the plaintiff is regarding the seepage in the building, alleged illegal construction and the installation of CCTV cameras by the defendant no.1 & 2. No grievance has been raised regarding misuse of any common passage or common utility by the defendant no.1 & 2 on which the defendant no.4 may have any control or liability. The plaintiff has impleaded the MCD as defendant no.3 in the present suit who is legally competent to take any action for the improper use or non-maintenance of the house by the occupant of the house. Further, MCD is the authority to take legal action on any unauthorized construction.
13. Therefore, the defendant no.4 is neither a necessary nor a proper party in the present suit specially when no relief has been sought by the plaintiff against the applicant /defendant no.4. In view of the above, the present application filed by the applicant/defendant no.4 is hereby allowed and the defendant no.4 is deleted from the array of the parties. Application is disposed of accordingly.

Announced in the open court on
this 17th day of July, 2026.

(Sunil Choudhary)
District Judge-01 (West)
Tis Hazari Courts/Delhi