

Suit No: 1195/17

Jaivir Singh Godara vs Ranvir Singh & ors

18.07.2018

Present: None

Three applications are pending for disposal which are as follows:

- 1) Application under Order 1 Rule 10 (2) of CPC filed by defendant no. 1 to 3 for deleting their names as defendants.
- 2) Application under Order 1 Rule 10(2) moved by Sh. Shanker Bhardwaj and Sh. Shailender Singh Dahiya for impleading their names as defendants.
- 3) Application moved by proposed defendants under Order 39 Rule 4 of CPC for vacating the stay order.

Firstly, application under Order 39 Rule 4 of CPC is taken up for consideration. Present suit has been filed by plaintiff seeking declaration of title and recovery of possession. As per the facts stated in the plaint, plaintiff is the owner of the land falling in Khasra no. 75/5 situated at village Mundka, Delhi. and defendant no.1 has trespassed on the portion of 200 sq. yards of land falling on the said Khasra no. 75/5. The GPA, WILL, receipt filed on behalf of the plaintiff pertains to Khasra no. 75/5 executed by Sh. Randhir Singh in favour of plaintiff.

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However in the prayer clause, plaintiff has prayed for recovery of possession and declaration of portion of land falling in Khasra no. 75/7. In the plaint and documents, plaintiff has asserted his rights on the land falling in khasra no. 75/5 whereas the prayer made in the plaint is with respect to land falling in Khasra no. 75/7. Hence, the suit property itself is not ascertained by plaintiff. Therefore, application under Order 39 Rule 4 of CPC is allowed. The status quo passed vide order dated 25.10.2017 stands vacated. As the plaintiff has asserted his ownership in the land falling under Khasra no. 75/5 and has made prayer with respect to land falling under Khasra no. 75/7, therefore, let plaintiff be heard on the said aspect as to why plaint itself shall not be rejected.

Applications under Order 1 Rule 10 (2) of CPC are kept in abeyance and same shall be considered only after the maintainability of the present suit is decided by the court.

Be listed for arguments on the maintainability of suit on 15.11.2018.

Sugandha Aggarwal  
ADJ-07/West/Delhi/18.07.2018