

Order No . 285, dSated 05.07.2025

Today is fixed for passing order in respect of the petition dated 12.11.2024 filed by the defendant no 2/1 U/O.1 R.10 of CPC.

Both the parties file haziras through their Ld. Advocates.

The defendant no 2/1 submitted before this Court that this defendant no 2/1 is the son of the deceased plaintiff Madhusudan Pal and said plaintiff Madhusudan Pal filed this present suit by challenging the deed of exchange being no 2154 dated 29.05.1993 and to give validation of the said deed of exchange being no 2154 , the defendant no 1 has executed one deed of gift in respect of Ka schedule property of deed of exchange being no 2154, in favour of this defendant no 2/1 and for that reason the plaintiff impleaded his son as defendant no 2/1 and now this defendant no 2/1 has filed one objection application against the said false deed of Gift which was executed by defendant no 1 in favour of defendant no 2/1 and denied the said deed of Gift and so far no conflicting interest remains between the plaintiff and the defendant no 2/1. After death of plaintiff Madhusudan Pal his wife ,daughters and this defendant no 2/1 are his legal heirs and and all of them are substituted in this suit in his place within statutory period and in this circumstances it is required for the effective adjudication of this suit to transpose of the defendant no 2/1 as one of the plaintiff of this suit otherwise the trial of the suit will be vitiated ,. the plaintiff cited one case law . AIR 1986, Panjab 402, the plaintiff also submitted that in this decision the Court holds that a Court can suo moto transpose any party of the suit by an application .

In reply the defendant no 1 submitted before this Court that, this defendant no 2/1 is contesting the suit as defendant and filed his written statement after appearing in the suit and Madhusudan Pal was the sole plaintiff of this suit and after his death his legal heirs are already substituted in his place as per law and at this stage the defendant no 2/1 could not be transpose as plaintiff of this suit and the present petition is completely false and liable to be rejected.

Heard & considered.

Perusing the all the materials available in the case record , this Court has found that the trial of the present suit has been completed and the suit is running on its argument stage and the defendants are going to start argument on their part. The present application U/O.1 R.10 of CPC. by the defendant no 2/1 is very suspicious to this Court as the evidence portion of both the sides have completed and the defendant no 2/1 has got enough opportunity to file this kind of application before or during the trial of the suit but at this stage when the argument of the suit is about to begin the defendant no 2/1 filed this application. Moreover , the defendant no 2/1 had already filed his written application both the parties to the suit have preferred there witnesses before this Court in support of their case on the parties of the plain and the written statement and in this circumstance any change or souffle of the parties would definitely change the out come of the trial as the defendant no 2/1 got ample opportunity to raise this kind of prayer earlier . However , the defendant no 2/1 prayed before this Court for transposition of himself as plaintiff of this suit under O.1 R. 10 of CPC but the provision of O.1 R. 10 of CPC implicates adding of parties in the suit those who are necessary parties of the suit as there presence is required or necessary to settle all the question involved in the suit in final form . But in this suit the defendant no 2/1 is already contesting the suit and he filed his written statement so far . Thus, in opinion of this Court the present application of the defendant no 2/1 is completely vexatious petition to mislead the Court as well as to kill the valuable time of the Court as well. Hence , it is

ORDERED

That the petition dated 12.11.2024 filed by the defendant no 2/1 U/O.1 R.10 of CPC. be and the same is hereby rejected on contest .

Next date **15.07.2025** for **argument** of the suit by the defendants.

T/C by me

Civil Judge Jr. Div. Additional
Court, Garhbeta.