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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 578/2020, I.A. 19269/2023, I.A. 20092/2023, I.A. 20076/2023**

ANIL SHARMAPlaintiff

Through: Mr. Sidharth Tyagi, Adv.

versus

ATUL GUPTA & ORS.Defendant

Through: Mr. N.K. Aggarwal, Adv. Shagun Pandey and
Adv. Sanjana Antil for defendant no. 6/
applicants (Through VC)

Mr. Piyush Chandel, Adv. for D-25 (Through
VC)

CORAM:

JOINT REGISTRAR (JUDICIAL) SH. KISHOR KUMAR (DHJS)

ORDER

% **17.09.2025**

Matter is taken up through physical hearing as well as video conferencing.

I.A. 19269/2023 (u/O I Rule 10 r/w Sec. 151 CPC filed by applicant/Sunita Goel)

I.A. 20092/2023 (u/O I Rule 10 r/w Sec. 151 CPC filed by applicant/proposed defendant/Sh. Shashi Vats)

I.A. 20076/2023 (u/O I Rule 10 r/w Sec. 151 CPC filed by applicant/Sh. Sunil Kumar)

Vide these applications, the applicants intend to become parties to the present suit as defendants.

No Replies to these applications have been filed by and on behalf of the plaintiff. Ld. Counsel for the plaintiff had straightaway argued on these applications praying for their dismissal.



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I have Ld. Counsel for the parties and have carefully gone through the record.

The present suit has been filed by the plaintiff for declaration against the defendants. The reliefs prayed for by the plaintiff against the defendants are to the following effects :

- 1. To pass a Decree of Declaration in favour of the Plaintiff against the Defendant No. 1 to 5 declaring that the share purchase agreement executed by the Plaintiff and Defendant No. 21 in favour of the Real (iains Infrastructure Pvt. Ltd. /the Defendants No. 1 to 4 was null and void ab initio as the patties were not consensus ad-idem to the contents thereof and any transfer of Defendant No. 5 by Defendant No .I to 4 was also patently illegal, null and void ;*
- 2. To pass of Decree of Declaration in favour of the Plaintiff against the Defendant No. I to 5 declaring that Settlement Agreement dated 25.07.2014 and all documents executed in pursuance thereto, executed between the parties herein were and are null and void ab initio and are not binding on the Plaintiff and Defendants No. 6 to 27 and had failed on repudiation thereof by the Defendant No. 1 to 5 and on insolvency / striking off the name of Real Gains Infrastructure Pvt. Ltd. and Zaza Construction Pvt. Ltd. and Connoisseur Buildcon Pvt. Ltd. and upon arrest / incarceration of the defendants No. I to 4 in jail;*
- 3. In the alternative, the Defendants No. I to 5 who received a large amounts from the Plaintiff and the Defendants No. 6 to 23 and 26 and 27 thereunder, are bound to restore it, to the Plaintiff and the Defendants No. 6 to 23 and 26 and 27 or to make compensation for it to the Plaintiff and the Defendants No. 6 to 23 and 26 and 27 from whom the same had been duly received by them, as per Section 65 of the Contract Act, together with interest thereon at the commercial rate of I8% per annum, for breach of Contract by the Defendants No. 1 to 5 in favour of the Plaintiff and the Defendants No. 6 to 23, 26 and 27 as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and that the Defendants No. 24 and 25 are bound by such Declarations as may be made in this suit and' that in view thereof, no coercive action qua Defendant No. 5 may be contemplated by them;*



4. *To pass any other further order or orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the Plaintiff against the Defendants.*

In these applications, the proposed defendants/applicants have stated that at different point of times since 2013, they have made payments to defendant no.5 and defendant no.23, however, they have not been given the possession of the flats nor their money has been returned despite their request and representations made to different authorities. During the course of arguments, Ld. Counsel for applicants have stated that they have got registered an FIR against the plaintiff and the defendants and therefore, they are required to become party in the present suit in order to resolve their disputes.

The relevant provision of Order I Rule 10 CPC for the sake of quick reference is reproduced as under :

(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.

In view of the above provision of law, the Court can add as party to the pending suit if the presence of the said party is necessary for the effective adjudication of the dispute between the parties.

Now coming to the facts of the present case and in view of the facts disclosed in these applications by the applicants, the Court reaches at the conclusion that the dispute of the plaintiff is different from that of the



proposed defendants. There is no denial that the applicants may be having certain grievances/disputes with the defendants or with the plaintiff for that matter but since the nature of their dispute is different from the nature of the dispute of the plaintiff herein, the proposed defendants are neither the necessary nor the proper parties to the present case.

In view of the nature of the facts disclosed by the applicants in their present applications, they can very well avail independent judicial proceedings against the defendants or the plaintiff as the case may be, as provided under the law but not in the present case.

In **Vidur Impex and Traders Pvt. Ltd. Vs. Tosh Apartments Pvt. Ltd. (2012) 8 SCC 384**, the Hon'ble Supreme Court held that the test for implement is (i) the person a necessary party?(ii) is he a proper party? (iii) is his presence essential for complete adjudication?.

Applying the ratio of this judgment of the Hon'ble Apex Court, I find that the proposed defendants are neither the necessary nor proper parties to the present case in view of the dispute between the plaintiff and the defendants.

In view of my observations hereinabove, **all the applications are hereby dismissed and stand disposed off accordingly.**

Matter be placed before Hon'ble Court for further directions on 14.10.2025.

KISHOR KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

SEPTEMBER 17, 2025/SM