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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 115/2018

BHARAT STAR SERVICES PRIVATE LIMITED & ANR

..... Plaintiff

Through: Mr. Abhinav Jayaswal, Advocate

versus

HARSH DEO THAKUR & ORS

..... Defendant

Through: Ms. Alisha Kalra and Mr. Rajiv
Kapur, Advocates for D-7
Mr. Kush Sharma, Ms. Asiya Khan
and Ms. Shrutika Garg, Advocates for
D-8
Mr. Ravinder Singh Dakha and Ms.
Meena, Advs. for D-9
Mr. Shloka Rawat, proxy counsel for
Mr. Lavleen Goyal, Adv. for D-10
Mr. Ranjeet K. Ranjan, Advocate for
D-11
Mr. Pawanshree Agrawal and
Ms. Abhipsa Anamika, Adv. for R-12
Mr. Akash Kumar, proxy counsel for
Mr. Rajiv R. Raj, Adv. for D-13

CORAM:

SH. ANIL KUMAR (DHJS), JOINT REGISTRAR (JUDICIAL)

ORDER

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16.01.2019

A letter written by defendant no.1 from Jail to Jail
(Superintendent), District Jail, Gautam Budh Nagar to the effect that
he is unable to defend himself as he and his wife both are in Jail.

No written statement has been filed on behalf of defendant no.2 to 6. Their right to written statement is closed. It has already been submitted on behalf of defendant no.7 that defendant no.7 is not willing to file the written statement. Defendant no.12 failed to file written statement. Right of defendant no.12 to file the written statement is closed.

List this matter admission/denial of documents on 21st February, 2019.

I.A. No. 14966/2018 filed by defendant no.14.

Heard.

By way of present I.A., defendant no.14 prayed for striking of his name from the array of parties.

It is submitted by learned counsel for defendant no.14 that applicant/defendant no.14 neither necessary nor proper party to the present suit and no prayer has been made against him hence, his name is liable to be struck off from the array of parties.

Relying upon judgment *Hardeva vs. Ismail and Ors. Manu/RH/0036/1970*. Learned counsel for plaintiff has submitted that defendant no.14 is necessary party to the present suit.

This is a suit for recovery of money, rendition of account and injunction. Relief of recovery of money and rendition of account has been sought only against defendants no.1 to 6. Relief of prohibitory injunction has been sought against defendants no.1 to 6 and 7 to 11. Mandatory injunction has been sought against defendants no.7 to 11.

In the plain, plaintiffs have pleaded that defendant no.1 was

employed while the plaintiff no.1 as associate account and he was responsible for accounts reconciliation and invoicing on behalf of the plaintiffs, salary disbursal, payments to vendors and other stakeholders, audit compliance, assisting finance department of the plaintiffs for preparation of quarterly balance sheet among others.

Plaintiffs have further pleaded that defendant no.1 misappropriated the fund of the plaintiffs routed and diverted by him through defendants no.2 to 6 who or his wife, brother, father, mother and sister respectively. Defendant no.7 to 11 are bankers of defendants no.1 to 6 and defendants no.12 & 13 are bankers of plaintiff.

In so far as defendant no.14 is concerned, the only pleading in the nature of allegation against defendant no.14 is that the defendant no.14 is one of the recipients of a portion of money embezzled and illegally routed by defendant no.1 from plaintiff's bank account in order to purchase a motor bike. No relief has been claimed in the plaint against the defendant no.14.

In view of the facts as mentioned in the plaint, I am of the opinion that defendant no. 14 is neither necessary nor proper party to the suit.

In aforesaid judgment relied upon by learned counsel for plaintiff the point of consideration before the Hon'ble High Court was that whether a transferrer or an immovable property is necessary party to a suit filed by a third person claiming property as his own. This judgment is not applicable to the facts of the present case.

In view of above observations, present I.A. is allowed. The

name of defendant no.14 is struck off from the array of parties.

Accordingly, this I.A. is disposed of.

ANIL KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

JANUARY 16, 2019/tp