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**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**CS(COMM) 277/2016**

**M/S CAPITAL LAND BUILDERS (P) LTD**

..... Plaintiff

Through Mr. Abhay Singh, Adv.

versus

**M/S BHARAT PETROLEUM CORP LTD**

..... Defendant

Through Ms. Monika, Adv.

**CORAM:**

**SANJAY JINDAL (DHJS), JOINT REGISTRAR (JUDICIAL)**

**ORDER**

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**25.11.2017**

**IA No. 6693/2017 U/o I R 10 r/w section 151 CPC moved by Sh. Janardan Rai for his impleadment.**

Pleadings are already complete.

Arguments already heard.

Brief facts necessary for disposal of the present application are that the plaintiff M/s Capital Land Builders Pvt. Ltd. has filed present suit for declaration, possession, mandatory and permanent injunction against the defendant namely M/s Bharat Petroleum Corporation Ltd. The case of the plaintiff is that in the year 1957, the land measuring 3932 sq. Yards in Khasra no. 82/1 of village Sakarpur situated at 4/4 Miles Stone, Rohtak Road, Delhi owned by three sons of Chaudhary Braham Prakash was leased out by their mother Smt. Satya Chaudhary and one son Suresh Chaudhary to M/s Burmah Shell Oil Storage & Company (Predecessor of defendant company) for a period

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-2-

of 20 years. In the year 1961, the said land was handed over to Smt. Satya Chaudhary for running a petrol pump under the name and style of Highway Service Station. In the year 1962, the said site was declared 'dangerous' and in the year 1979 the same was also declared as 'shifting site'. In the meantime, in 1972-73, the said land was sold to the plaintiff and dealership was also transferred to the plaintiff company. In 1975, the Oil companies were nationalized and abovesaid Burmah Shell became Bharat Petroleum Corporation Ltd. and as per requirement a fresh agreement was executed with plaintiff through Sh. Janardan Rai being the authorized representative of the plaintiff company. Subsequently a decision was taken to shift the retail outlet and alternate site was selected at Golden Park, Rohtak Road, New Delhi i.e. the existing site of retail outlet. It is also the case of the plaintiff that Mr Janardan Rai joined the services of plaintiff company in 1962 and over a period of time the plaintiff company developed trust and confidence upon him and several functions were assigned to him.

It is further case of the plaintiff that the plaintiff company passed a resolution on 30.09.1999 to the effect that said Janardan Rai will handle the said petrol pump unit and a fixed profit shall be given to the plaintiff. Subsequently, the share holders of the plaintiff company resolved to remove the auditors appointed by the plaintiff company stating that retail outlet unit of the plaintiff company has been transferred to Mr. Janardan Rai in unauthorized manner. It is

Contd.....3



-3-

alleged that after removal of the auditors, said Janardan Rai turned dishonest and his intentions became malafide and detrimental to the interest of plaintiff company as he started conspiring and hatching plans to usurp the business of the said retail outlet. It is also alleged that said Janardan Rai colluded with the officials of the defendant company and this fact was duly brought to the notice of defendant company but despite that the officials of the defendant continued to deal with the said Janardan Rai in breach of DPSL agreement executed between plaintiff and defendant. It is alleged that the defendant has issued a termination letter dated 07.03.2014 thereby terminating the dealership of the plaintiff vide agreement dated 17.05.1974 by ignoring the above mentioned facts.

With certain other allegations, the plaintiff has sought a decree for declaration thereby declaring that the show cause notice dated 01.05.2013 and termination letter 07.03.2014 issued by the defendant terminating the DPSL agreement dated 07.05.1974 as illegal, null and void. The plaintiff has also prayed for consequential relief of mandatory injunction.

The applicant Janardan Rai has filed the present application for his impleadment in the array of parties with contention that he is necessary and proper party in the present suit as he has already been recognized as sole proprietor of the petrol pump in question. It is stated that the applicant has already filed a civil suit before the Court of Learned Civil Judge seeking declaration that he is sole proprietor

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-4-

of petrol pump wherein the application U/o XXXIX R 1&2 CPC filed by him was disposed off vide order 07.10.2005 with observation that he was in continuous possession of the petrol pump and has been running the same as sole proprietor. Further that the appeal filed by the present defendant in the said suit was allowed by the learned ADJ vide order dated 20.11.2009. Further that the applicant filed a review application for review of order dated 20.11.2009 and during pendency of the said application, the defendant issued another show cause notice dated 01.05.2013. It is also contended that an FIR has also been lodged against the defendant by the applicant.

It is argued on behalf of the applicant that the rights and interest of the applicant are directly affected by the outcome of the present suit, so, it is in the interest of justice that the applicant is impleaded in array of parties.

The application has been opposed by the plaintiff who have filed a detailed reply. It is argued that the actual dispute, which is subject matter of present suit, is between the plaintiff and defendant and the applicant has no privity of contract qua the concerned agreement. It is further submitted that the applicant has merely signed the agreement on behalf of the plaintiff company being authorized signatory/director/paid employee which in law does not confer any independent right.

I have carefully perused the record in light of submissions made before me.

Contd.....5



-5-

If the contents of the plaint filed by the plaintiff are perused, it is found that name of the applicant is reflecting in almost all the important and relevant paragraphs. The basic contention, on which the present suit has been filed by the plaintiff, is regarding the alleged misuser of authority by the applicant and alleged connivance between the applicant and the officials of the defendant company. It is own case of the plaintiff that the petrol pump in question was handed over to the applicant by reserving a fixed profit for the plaintiff company. It cannot be denied that the rights of the applicant are directly or indirectly going to be affected by the outcome of the present suit. Maybe initially the applicant dealt with the defendant company in the capacity of a mere authorized signatory of the plaintiff but there are instances in the case of plaintiff itself that the applicant has been running the concerned petrol pump independently. The issues relating to the role and authority of the applicant are questions of facts which can be decided with the help of evidence.

In the given facts and circumstances, I am of the considered view that the applicant Mr. Janardan Rai is atleast a proper party, if not the necessary party, to the present suit for reaching at a just decision in the case. It is clear from the records that no effective order can be passed in the present case on the back of the applicant.

Accordingly, the present application is allowed and Mr. Janardan Rai is impleaded as defendant no. 2 in this case. The plaintiff is directed to file amended memo of parties and to take steps

Contd....6



-6-

for formal service of summons of suit on defendant no. 2 by all permissible modes within four weeks for next date of hearing.

IA stands disposed of.

**CS (COMM) 277/2016**

Put up for awaiting of service of defendant no. 2, who may file his written statement within four weeks after receiving summons with advance copy to learned counsel for plaintiff who may file his replication within two weeks thereafter with copy to opposite side.

Re-notify the matter on 22.02.2018

**SANJAY JINDAL (DHJS)  
JOINT REGISTRAR (JUDICIAL)**

**NOVEMBER 25, 2017/pk**