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

+ **CM(M) 2460/2025**

JYOTI KOHLI

.....Petitioner

Through: Ms. Mrinalini Sen, Advocate
(through videoconferencing).

versus

NEHA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **19.12.2025**

CM APPL. 80453/2025 (exemption)

1. Allowed, subject to all just exceptions.

CM(M) 2460/2025 & CM APPL. 80452/2025 (for interim injunction)

2. Petitioner has assailed orders dated 28.01.2025 and 02.08.2025 of the learned trial court, whereby her application under Order I Rule 10 CPC was dismissed by the trial court.

3. Broadly speaking, the learned trial court dismissed the application of the petitioner on the ground that the subject suit is for recovery of loan amount, for which the petitioner who is the sister of the defendant is neither a necessary nor a proper party. The stand taken by the petitioner before the trial court was that she is the co-owner of the mortgaged property but that ground was rejected by the learned trial court, holding that the property in question is a secondary aspect, being merely the security.

4. Learned counsel for petitioner has taken me through complete record, especially the loan agreement (*page no. 351 of paperbook*), according to



which the immovable property in question was mortgaged by the defendant. The learned counsel has also taken me through order dated 16.09.2023 of the trial court (*page no. 377 of paperbook*), wherein an additional issue was framed as to whether the defendant has relinquished his share in the said property, and if so, to what effect.

5. On the basis of the above record, it is contended by learned counsel for petitioner that the petitioner, though not a necessary party, is certainly a proper party because the enforceability of mortgage being one of the controversies in the suit, presence of the petitioner in the suit would be required for effective and complete adjudication in view of specific stand taken by the defendant as well as the present petitioner that the defendant had relinquished his share in the property in question. I find substance in the submission of learned counsel for petitioner.

6. Therefore, proceedings before the trial court shall remain stayed till the next date.

7. At the same time, the learned trial court shall also examine as to whether the defendant committed any offence by mortgaging the property in question in the year 2019, despite his having relinquished his share way back in the year 2004 itself. In this regard, appropriate action in accordance with law be taken by the parties.

8. Subject to petitioner taking steps within one week, notice through all modes be issued to the respondent, returnable on 24.03.2026 before Registrar.

GIRISH KATHPALIA, J

DECEMBER 19, 2025/dr