

Tek Chand & others Vs. State of H.P. & others.

CWP No. 1116 of 2019

23.7.2025 **Present:** Mr.Dinkar Bhaskar, Advocate, for the petitioners.
 Mr.Navlesh Verma, Additional Advocate General, for
 respondent No. 1-State.
 None for respondent No. 2 and 3.

CMP No. 11832 of 2025

This application has been filed for deletion of respondents No. 2 and 3, i.e. persons who were appointed Chief Whips at the time of filing petition because appointment of Chief Whips has been assailed in the petition and now they are not Chief Whips and person proposed to be arrayed as respondent is newly appointed Chief Whip.

This application was filed in December, 2024. Till date no reply has been filed by respondents.

Learned Additional Advocate General has submitted that he is not able to comment on the application for want of instructions from State of Himachal Pradesh, in this regard.

It is settled that petitioner has dominus litis to implead or delete respondents subject to cause of action for impleading. The persons who are not continuing as Chief Whips as on date, are not going to be affected if petition is allowed whereas proposed respondent is a person who has now been appointed as Chief Whip and in case petition is allowed, he shall be affected adversely. Therefore, present respondents

No. 2 and 3 are no more necessary party, whereas proposed respondent is necessary party.

Provisions of Order 1 Rule 10(2) of the Code of Civil Procedure clearly provide that necessary party can be impleaded and party wrongly added can be struck off at any point of time even without filing of application by either party. Therefore, power of Court is not inhibited for want of consent of State. However, as prayed by learned Additional Advocate General matter is adjourned for next date.

Steps for service of proposed respondent have already been taken, however, as per report of the Registry, notice could not be issued as the file got mixed up with some other files and concerned Dealing Hand has regretted for the mistake with prayer to take lenient view.

It is expected from the Registry of the High Court to act with due diligence to avoid such mistakes.

Be that as it may. For the steps already taken notice returnable on next date, be issued to the proposed respondent, in terms of order dated 18.6.2025.

List on **27th August, 2025.**

***(Vivek Singh Thakur),
Judge.***

***(Sushil Kukreja),
Judge.***

23rd July, 2025.
(Keshav)