


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 2529/2025

Smt. Ritu W/o Mukesh Kumar

----Petitioner

Versus

Municipal Corporation

----Respondent

For Petitioner(s) : Mr. Ashish Saxena.

For Respondent(s) : Mr. R.K. Daga, for applicant.

HON'BLE DR. JUSTICE NUPUR BHATI
Order

24/03/2026

1. The matter comes on an application (I.A. No.1/2025) filed under Article 226 of the Constitution of India read with Order I Rule 10(2) of the Code of Civil Procedure, seeking impleadment of the applicant, Deepak Kumar Tank, as a party-respondent to the present writ petition.

2. Learned counsel for the applicant submits that the applicant had lodged a complaint against the petitioner regarding a dairy booth, requesting the authorities to remove the same. It is further submitted that the petitioner was afforded sufficient opportunities of hearing; therefore, the contention raised by the petitioner in the writ petition that the impugned notice dated 06.02.2025 (Annex.6), issued under Section 245 of the Rajasthan Municipal Act, 2009, was passed without affording any opportunity of hearing, is false and frivolous.

3. Learned counsel for the applicant further contends that the applicant is a necessary and proper party, as the impugned notice dated 06.02.2025 was issued on the basis of the complaint lodged by the applicant.

4. Per contra, learned counsel for the petitioner opposes the application and submits that even if the impugned notice was issued on the basis of the applicant's complaint, the applicant cannot be regarded as a necessary or proper party for adjudication of the present lis. He submits that the petitioner has neither claimed any relief against the applicant nor is the applicant the issuing authority of the impugned notice, which has been issued by the respondent-Corporation. He further submits that no fundamental or legal right of the applicant would be prejudiced in the event he is not impleaded as a party-respondent; therefore, his impleadment is not warranted.

5. Learned counsel for the petitioner places reliance upon an order dated 06.04.2017 in the case of **Vivek Meena Vs. State of Rajasthan & Ors.: SBCWP No.532/2017** passed by a Coordinate Bench of this Court at Principal Seat Jodhpur, wherein the Court has held that the complainant, in circumstances such as the present case, is neither a necessary nor a proper party for the purpose of impleadment.

6. I have considered the submissions advanced by learned counsel for the applicant as well as learned counsel for the petitioner and have perused the material available on record.

7. From a bare perusal of the application and record, it reveals that the respondent-Corporation has issued a notice to the petitioner under Section 245 of the Act of 2009, directing removal of encroachment from a public way. Even assuming that the said show-cause notice was issued on the basis of the applicant's complaint, the petitioner in the present writ petition has neither

sought any relief against the applicant nor would any fundamental or legal right of the applicant be prejudiced in his absence.

8. For the purpose of deciding this application, the prayers of the writ petition are reproduced hereunder:

- i. By an appropriate writ, order or direction, the illegal notice dated 06.02.2025 (Annexure-6), may kindly be quashed / set aside and the Respondents may further be directed not to remove the diary booth of the petitioner and cause any hindrances in the functioning of the same.
- ii. Any other order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in favour of the petitioner may also be passed.
- iii. Cost of the writ petition may kindly be awarded in favour of the petitioner."

9. In view of the foregoing discussion and prayers made in the writ petition, this Court is of the considered opinion that the applicant does not fall within the ambit of either a "necessary party" or a "proper party" for the effective and complete adjudication of the present writ petition. It is an admitted position that no relief whatsoever has been claimed against the applicant, and the lis involved in the present case is essentially between the petitioner and the respondent-Corporation, which has issued the impugned notice in exercise of its statutory powers. The mere fact that the impugned action may have been initiated on the basis of a complaint submitted by the applicant does not confer upon him any enforceable right to be impleaded as a party in the present proceedings.

10. It is further evident that no fundamental or legal right of the applicant is likely to be affected or prejudiced by the outcome of the present writ petition. The adjudication of the validity of the impugned notice can be effectively undertaken in the absence of

the applicant, and his presence is neither necessary for the grant of relief sought nor would it assist in the proper adjudication of the issues involved.

11. The petitioner, being the dominus litis of the writ petition, cannot be compelled to implead the applicant as a party respondent, particularly when the rights of the applicant would not be affected if he remains unheard. The same has been decided by the Apex Court in the case of ***Kasturi vs Iyyamperumal & Ors*** reported in ***AIR 2005 SC 2813*** and the relevant extract is reproduced hereinunder: -

“17. That apart, there is another principle which cannot also be forgotten. The appellant, who has filed the instant suit for specific performance of the contract for sale is dominus litis and cannot be forced to add parties against whom he does not want to fight unless it is a compulsion of the rule of law, as already discussed above. For the reasons aforesaid, we are therefore of the view that respondent Nos. 1 and 4 to 11 are neither necessary parties nor proper parties and therefore they are not entitled to be added as party-defendants in the pending suit for specific performance of the contract for sale.”

12. In such circumstances, permitting the impleadment of the applicant would not only be unwarranted but may also unnecessarily complicate and protract the proceedings. Accordingly, the application for impleadment being devoid of merit is hereby dismissed.

(DR. NUPUR BHATI),J