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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 06th May, 2025*

+ CM(M) 854/2025 & CM APPL. 27426-27428/2025

SIDDHARTH JAINPetitioner

Through: Mr. Manish Gupta, Advocate
(Through VC)

versus

NITIN JAINRespondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 27427/2025 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 854/2025 & CM APPL. 27426/2025 & CM APPL. 27428/2025

1. Petitioner is defending a suit for recovery filed by his real brother.
2. During the pendency of the aforesaid suit, the defendant moved an application under Order I Rule 10 CPC praying therein that their father may be impleaded as party in the present suit.
3. Such request was made while claiming as under: -

“It is submitted that the plaintiff and the defendant are brothers and the father of the parties Sh. Kamal Prasad Jain is a necessary party to the present suit. It is submitted that the money transactions in the family were done on the instructions of the father and he is well aware of the facts related to the present suit. It is submitted that the amount in issue in the present suit was paid by plaintiff in the loan account of the defendant wherein the father was also a guarantor and the said payment was done on his pretext as, the plaintiff owed money to the father, Sh. Kamal Prasad Jain.”

4. The suit filed by respondent Nitin Jain is very precise in nature. He claims himself to be an NRI and according to him, his brother had sought financial assistance from him and, consequently, he transferred



a sum of Rs. 15 lacs in his account through online transaction. His sole grievance is that aforesaid amount has not been returned despite request and legal notice.

5. I have also seen the stand taken in the written statement.

6. The crux of the contentions of defendant is that transfer was made as per instructions of the father of the parties and it was to meet some outstanding with respect to loan account.

7. Obviously, plaintiff is not seeking any relief against his father and, therefore, his father does not seem to be a necessary party, at least, in context of the relief sought in plaint. If at all, the defendant is of the view that transfer was with some specific instructions and purpose coming from their father, at the stage of trial, defendant can always examine his father in order to substantiate his such stand but fact remains that from no angle whatsoever, father of the parties cannot be said to be a necessary party in the aforesaid suit.

8. Viewed thus, this Court does not find any reason to interfere with the impugned order.

9. Petition is accordingly dismissed *in limine*.

10. All the pending application shall also stand disposed of.

(MANOJ JAIN)
JUDGE

MAY 6, 2025/dr/shs