



2025:DHC:7412



\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 26th, August, 2025**+ **CM(M) 370/2025 & CM APPL. 10802-10803/2025****RITU MISHRA & ORS.**

.....Petitioner

Through: Mr. Deepak Singh Thakur, Ms. Komal Verma and Ms. Bhavna Sharma, Advocates.

versus

CHANDI PRASAD GUPTA & ORS.

.....Respondent

Through: Ms. Ravi Kr. Tomar, Advocate.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)**

1. Petitioner is defending a suit which seeks recovery of Rs.60 lacs.
2. The suit was filed in the year 2009 and when the abovesaid suit was pending adjudication before this Court on its original side, following issues were framed on 12.03.2014:-

“i) Whether the suit is barred by limitation? OPD.

ii) Whether the suit is liable to be dismissed for misjoinder of parties and misjoinder of cause of action? OPD.

iii) Whether the plaintiff is entitled to refund of the earnest money along with interest totalling to Rs.60 lakhs from the defendants in pursuance to the agreements to sell dated 17.02.2006 and 01.03.2006 purported to have been executed by the defendants? If so, to what effect? OPP.

iv) Whether the plaintiff is entitled to interest? If so, on what amount and for what period? OPP.

v) Relief.”



3. However, with the change in the pecuniary jurisdiction, the suit, eventually, got transferred to District Courts.

4. When the case was at the stage of defendant's evidence, the defendant came up with several applications including one application moved under Order XIV Rule 5 CPC and under Order I Rule 10 CPC and the prime grievance in the present petition is with respect to dismissal of the abovesaid applications.

5. The impugned order dated 27.01.2025 is a composite one.

6. According to defendant Nos. 1 to 4, there is requirement of framing following additional issue:-

“Whether the plaintiffs were ready and willing to perform their part of contract by offering the balance sale consideration?OPP.”

7. Quite clearly the suit in question is a simple recovery suit and perhaps the endeavour of the defendant is to project as if the suit seeks specific performance of any contract. Moreover, the entitlement of the plaintiff to recover the amount in question is comprehensive enough and, naturally, the abovesaid aspect about the willingness would stand taken care of automatically. In any case, the defendants can always demonstrate during the trial that the default, if any, was on the part of the plaintiffs and, therefore, they are not entitled to seek any recovery.

8. From the abovesaid prospective, this Court does not find any requirement of interfering with the impugned order with respect to denial of framing of additional issues.

9. Coming to the application moved under Order I Rule 10 CPC, defendant Nos. 2 to 4 seek their deletion from the array of parties. It is contended that they have been impleaded only because of the fact that there



was familial relationship between them and defendant No.1 and that there is no specific cause of action or any claim against them.

10. The learned Trial Court was of the view that since the case was already at the stage of defendant's evidence and there is averment with respect to the role of defendant Nos. 2 to 4 in the pleadings, it will not be appropriate to delete their names from the array of the parties, while also supplementing that their presence would be required for just and proper adjudication of the matter.

11. The abovesaid supplementary observation, to me, was not required.

12. Fact, however, remains that since the case is already at the stage of defendant's evidence, at such a belated stage coupled with the fact that there are specific averments in the suit, this Court, while exercising supervisory jurisdiction, does not feel any requirement of making any observation in this regard.

13. The issues framed by this Court have already been extracted above and, clearly, an issue with respect to misjoinder of parties has already been framed and since the case is, virtually, at the last leg of its journey, it will not be appropriate to interfere with the impugned order by invoking supervisory jurisdiction under Article 227 of Constitution of India when there is no apparent illegality or perversity in the impugned order.

14. The present petition is, accordingly, dismissed. However, it is clarified that the observations made herein above would not prejudice the mind of the Trial Court and the learned Trial Court would decide all the issues, including the issue with respect to misjoinder of the parties, strictly in terms of the evidence led by the parties and related pleadings, without being influenced any observation appearing in the present order.



2025:DHC:7412



15. The present petition is disposed of in aforesaid terms.
16. The pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 26, 2025/ss/pb