



2025:DHC:9378-DB



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

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Judgment reserved on: 06.10.2025

Judgment pronounced on: 28.10.2025

+ FAO(OS) 4/2025 & CM APPL. 2845/2025

YOGESH JAIN

.....Appellant

Through: Mr. Roopansh Purohit and
Ms. Narayani Sepaha,
Advocates.

versus

D.S.S. HOTELS PVT LTD & ORS.Respondents

Through: Mr. Pankaj Vivek, Mr. Naveen
Malik and Mr. Tarun Rathi,
Advocates for R-1.
Mr. Rohit Yadav, Advocate for
R-5.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of an order dated 22.10.2025 [hereinafter referred to as 'Impugned Order'] passed by the learned Single Judge in I.A. No. 23/2023 in CS(OS) No. 392/2022, whereby an application under Order I Rule 10 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] filed by the Appellant seeking impleadment in the partition suit titled as *D.S.S. Hotels Pvt. Ltd. vs. Madhu Jain & Ors.*, has been dismissed by the learned Single Judge.



2025:DHC:9378-DB



2. The narrow question for determination in the present Appeal is whether the Appellant is a necessary party to the partition suit such that he ought to have been impleaded and whether the learned Single Judge was right in (a) dismissing the impleadment application; and (b) directing cancellation of the Relinquishment Deed dated 31.01.2006 on the facts and law of the case.

FACTUAL MATRIX:

3. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noted.

4. A perusal of the record reflects that late Sh. Gian Chand Jain [hereinafter referred to as 'Sh. Gian'] had purchased certain share by a registered Sale Deed dated 22.06.1992 in portions of Khasra Nos. 427, 430 and 431 (Village Malikpur Kohi @ Rangpuri) [hereinafter referred as 'suit property']. During his lifetime, transfers were effected in respect of portions of the said holdings: transfer documents and a registered Will were executed in favour of Sh. Satish Kumar Dhankar [hereinafter referred to as 'Sh. Satish'] and Sh. Om Prakash [hereinafter referred to as 'Sh. Om'] dated 09.08.2002.

5. M/s D.S.S. Hotels Pvt. Ltd. [Plaintiff in CS(OS) 392/2022] claims title through acquisition from Sh. Satish and Sh. Om by way of a registered Relinquishment Deed dated 31.01.2011 and consequent mutation order dated 24.01.2011. The Competent Land Acquisition Authority and the Revenue/Collector/Financial Commissioner have on various occasions dealt with and recognised parts of these competing claims.



6. The Appellant claims title to one bigha of the suit property as legal heir of Sh. Gian and relies on a Relinquishment Deed dated 31.01.2006, which was executed purportedly by Sh. Gian's legal heirs in his favour; he also challenged the mutation orders earlier and has been before Revenue and Civil Courts.

7. The Appellant's prior civil proceedings seeking declaration and possession in relation to the one bigha – CS No. 50/2009 and the consequent Regular First Appeal bearing RFA 537/2013 – came to be dismissed with the said RFA being dismissed on 02.12.2013. The Court in RFA 537/2013 held that Sh. Gian, during his lifetime and in pleadings before the Civil Court, admitted sale and delivery of possession of the one bigha plot in favour of Sh. Satish and Sh. Om. The Court also held that the Appellant failed to lead evidence and therefore could not succeed.

8. Pending the partition suit and other proceedings, the learned Single Judge by way of the Impugned Order dismissed the impleadment application filed by the Appellant *inter alia* holding that the Appellant had no right, title or interest in the subject land and that the relinquishment deed dated 31.01.2006 was fraudulent and ought to be cancelled; consequential directions were issued for cancellation.

CONTENTIONS BY THE APPELLANT:

9. Learned counsel for the Appellant has contended that the Appellant is a necessary and proper party to the partition suit as he claims ownership and possession of the one bigha falling within the suit khasras; impleadment was therefore mandatory. Learned counsel



has further contended that, the learned Single Judge committed error in treating the earlier proceedings, including the RFA as finally foreclosing his claims; alternatively, even if prior proceedings exist, the question of the validity of the relinquishment deed dated 31.01.2006 required adjudication and could not be cancelled in summary proceedings on an impleadment application.

10. Learned counsel of the Appellant has contended that the direction to the Sub-Registrar/Registrar General to cancel the registered instrument (31.01.2006) was beyond the scope of an Order I Rule 10 application and amounted to a collateral attack on title which should await trial/appropriate proceedings. Further, he asserts that the transfer chain from Sh. Gian to Sh. Satish and Sh. Om, and from them to M/s DSS Hotels is infirm and the principal's authority by virtue of GPA or otherwise was revocable; accordingly, the respondent's title is not sacrosanct and the Appellant must be heard fully.

CONTENTIONS BY THE RESPONDENTS:

11. *Per contra*, learned counsel for the Respondent No.1 has contended that during his lifetime, Sh. Gian had admitted the sale of the subject one bigha to Sh. Satish and Sh. Om in court proceedings. This fact was recorded by the Trial Court and upheld in RFA 537/2013, which found that the Appellant did not lead evidence to sustain his claim. Furthermore, M/s D.S.S. Hotels claims title through duly executed Relinquishment Deed in 2011 and consequent mutation orders, and parts of its claim have been recognized in revenue/land acquisition proceedings.



12. Learned counsel for the Respondent No.1 has also contended that the Relinquishment Deed dated 31.01.2006 relied upon by the Appellant was found to be fraudulent by the learned Single Judge and that the Appellant cannot be treated as a necessary party in a partition suit where only title-holders are proper parties.

FINDINGS & ANALYSIS:

13. This Court has heard the submissions advanced by the learned counsel for the parties at length and with their able assistance, perused the paper book and the record of the suit.

14. It is evident that the learned Single Judge has duly considered all relevant aspects of the matter and proceeded to record the following observations:

“14. The present suit for partition has been filed between the parties, who have ownership rights in the Subject land. In a suit for partition, the title holders alone are necessary parties. The applicant/Mr. Yogesh Jain has no right, title or interest in the subject land and therefore, he is not a necessary party to the captioned suit for partition between the land owners.

15. In view of the above, the application is dismissed.

16. Late Shri Gian Chand Jain died on 10.12.2003, at the time of his death did not own the subject land and therefore, his legal heirs did not inherit the said land. Sh. Gian Chand Jain had sold the subject land during his lifetime and also executed a registered Will in favour of the purchasers. The said fact of the sale and execution of the registered Will was duly disclosed and admitted by Sh. Gian Chand Jain in the suit proceedings of Suit No. 02/2002. Therefore, the execution of the relinquishment deed dated 31.01.2006 by the legal heirs of Sh. Gian Chand Jain in favour of the applicant/Mr. Yogesh Jain in respect of the subject land was fraudulent. The said relinquishment deed has been evidently created to enable the applicant Mr. Yogesh Jain to make false title claims.

*16.1 In view of the binding findings of the Coordinate Bench in **Yogesh Jain** (Supra), the applicant/Yogesh Jain ought not to have relied upon the relinquishment deed dated 31.01.2006 any further.*



The applicant is however wrongfully continuing to rely upon the said void document and is unlawfully claiming rights thereunder.

16.2 To prevent this abuse, a direction is hereby issued to the concerned Sub-Registrar, where relinquishment deed dated 31.01.2006 is registered to cancel it. The applicant/Yogesh Jain is directed to deliver up the said relinquishment deed dated 31.01.2006 before the Registrar General of this Court and the Registrar General is directed to cancel the said instrument.”

15. In view of the aforesaid *prima facie* observations, this Court does not deem it appropriate to interfere with the Impugned Order, while observing that the learned Single Judge, has rightly held that *prima facie* the Appellant has no right, title or interest in the subject land and therefore, he is not a necessary party to the captioned suit for partition between the land owners.

16. This Court also finds that it is well settled that in a partition suit, the person to be impleaded must have a real and subsisting title or interest in the subject land which is sought to be partitioned. An impleadment under Order I Rule 10 of the CPC is not a mechanism for the Court to decide disputed title on the spot; rather the applicant must show *prima facie* that he has such a right that makes him a necessary party. If the applicant's asserted title is shown on record to be unsustainable by earlier binding findings or by the documentary record, impleadment may be refused.

17. It is pertinent to note that the Appellant previously pursued civil remedies, CS No. 50/2009 and the subsequent RFA. The Court in RFA 537/2013 had examined the record of the earlier suit and held that Sh. Gian, in his pleadings, admitted sale and delivery of possession in favour of Sh. Satish and Sh. Om and that the Appellant failed to lead evidence to establish title; and therefore the suit failed.



Those findings were not set aside subsequently and the RFA attained finality. The Impugned Order proceeded on the reasonable foundation that the RFA findings *prima facie* severely undermine the Appellant's claimed title.

18. Additionally, this Court finds it pertinent that on the record are the revenue and mutation orders of 2011, the relinquishment in favour of the plaintiff in 2011, and the Competent Authority's orders dealing with disputed compensation-these documents reflect that significant portions of the title chain have been acted upon and recognized by official authorities. While revenue action does not decide civil title, the cumulative record-when combined with the RFA finding that the father admitted sale-provides a firm basis to treat the Appellant's claimed title as legally infirm.

19. It may be noted that where an agent is given authority which is coupled with an interest, or where an agent acts under authority that confers a right which is acted upon and third-party rights crystallise, the principal cannot later arbitrarily revoke the authority to the prejudice of such third parties. The Punjab & Haryana High Court in *Smt. Parkash Devi v. Rajinder Kumar*¹ and *Pradeep Chaudhary v. Birawati*² reaffirms the proposition that once a power enabling transfer is exercised and third parties act in good faith to acquire rights, the purported revocation of the agency cannot imperil those third-party rights.

¹ RSA 2819/2007 (O&M)

² RSA 799/2019 (O&M)



20. In the case at hand, the Appellant's further contention was that any transfer by Sh. Satish and Sh. Om to the M/s D.S.S Hotels Pvt. Ltd. is suspect because the principal, Sh. Gian, could purportedly revoke the power of attorney or that the GPA itself was not binding. Section 202 of the Indian Contract Act, 1872, which is relevant to answer this issue, is extracted as under:

“202. Termination of agency where agent has an interest in subject-matter— *Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.*

Illustrations (a) *A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A. A cannot revoke this authority, nor can it be terminated by his insanity or death.*

(b) *A consigns 1,000 bales of cotton to B, who has made advances to him on such cotton, and desires B to sell the cotton, and to repay himself out of the price, the amount of his own advances. A cannot revoke this authority, nor is it terminated by his insanity or death.”*

21. It is evident that illustration (b) to Section 202 of the Indian Contract Act, 1872, itself explains that the agency in which the agent has an interest is neither terminated by insanity nor by death of the principal. In the present set of facts the materials on record show:

- i. transfer documents in favour of Sh. Satish and Sh. Om in 2002–2003 and a registered Will;
- ii. acts of mutation and transfer in 2011; and
- iii. the Appellant's Relinquishment Deed 31.01.2011 which was acted upon by revenue/land acquisition authorities with undisputed portions being paid as compensation to the plaintiff.



2025:DHC:9378-DB



22. However, the learned Single Judge has erred while issuing directions to the Sub-Registrar/Registrar General to cancel an instrument/relinquishment deed. At the stage of deciding impleadment application, the Court should desist from taking steps envisaged in Section 31 of the Specific Relief Act, 1963, particularly when the applicant has not been provided with opportunity to prove his case.

23. This Court observes that for the foregoing reasons the Appellant has not demonstrated a *prima facie* subsisting title or interest in the subject one bigha which would render him a necessary party to the partition suit.

24. Further, this Court finds that the learned Single Judge did not err in dismissing the impleadment application, I.A. No. 23/2022. However, the finding that the 31.01.2006 instrument was a fraudulent vehicle for asserting title is neither necessary nor appropriate at this stage. Hence, that part of the Impugned Order is set aside.

25. In view of the aforesaid, this Court finds no error in the substantive part of the Impugned Order.

26. The present Appeal, along with the pending application, is disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 28, 2025

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