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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 7th November, 2012

+ CM(M). 269/2010

SANJEEV CHAWLA

Through

..... Petitioner

Mr.Rabin Majumdar, Advocate

versus

SUNITA CHAWLA & ORS.

Through

..... Respondent

Mr. Chander Shekhar, Advocate for the
Respondent No.1.

Mr. Mahesh Chaudhary with Ms. Geeta
Vohra, Advocate for the Respondents
No.2 to 8.

Mr. K.R. Chawla with Mr. Arvind
Varma, Advocate for the Respondents
No.9 & 10.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Petitioner impugns an order dated 11.01.2010 passed by the learned Additional District Judge-06(West), Delhi whereby an Application under Order 1 Rule 10(2) Code of Civil Procedure (CPC) moved by the Petitioner for being impleaded as a party in Suit No.154/2006 titled

Sunita Chawla v. The Group Head, Global Trust Bank & Ors. pending in the Court of the Additional District Judge, Delhi was dismissed.

2. Before coming to the Application under Order 1 Rule 10 CPC and the impugned order, it would be appropriate to refer in brief the averments made in the suit filed by Sunita Chawla.
3. In the said suit, it was alleged that the Defendant No.1 was the controlling authority of the Defendants No.2 to 7 which were the various branches of the Global Trust Bank. The Plaintiff alleged that there were 27 FDRs details of which were mentioned in para 2 of the plaint which were held in the joint name of the Plaintiff and the Defendant No.8, her sister and Defendant No.9, her mother. The Plaintiff contended that the amount forming part of the FDRs was deposited by her. It was alleged that in some of the FDRs, the Plaintiff was the first holder while in others she was named the second or the third holder. It was alleged that besides the 27 FDRs as stated in para 2 of the plaint, there were other FDRs, originals whereof were lost. The Plaintiff claimed that as per the conditions, and rules of deposit of the Global Trust Bank, the first named Plaintiff was entitled to the payment of the FDRs at the time of their maturity and the second and the other holders had nothing to do with the receipt of the money(at the time of maturity). It was stated that the Defendants No.8 and 9 refused to hand over the FDRs to the Plaintiff. The Plaintiff thus sought an injunction restraining the Defendants not to disburse the amount of the FDRs as mentioned in the suit to Defendants No.8 and 9.

4. While contesting the suit, the Defendants No.8 and 9 filed a joint statement claiming that the FDRs belonged to them and were acquired with their own funds.
5. A perusal of the Application under Order 1 Rule 10 read with Section 151 CPC preferred by the Petitioner reveals that there is some dispute with regard to the estate left by Late Col. H.K. Chawla, who was the father of the Petitioner, Plaintiff and Defendant No.8 and husband of Defendant No.9. The Applicant Petitioner also alleged about some Will was executed in their favour by the Defendants No.8 and 9. The Petitioner also propounded the Will dated 04.01.2001 executed by Late Col. H.K. Chawla. In the entire Application, there is not even a whisper that the Petitioner had any interest in the FDRs or the ground for that interest. Order 1 Rule 10(2) empowers a Court to strike out or add parties. The same is extracted hereunder:

“Order 1 Rule 10.....

(2). Court may strike out or add parties.- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectively and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

6. The normal rule is that the Plaintiff is *dominus litus*. The provisions of Order 1 Rule 10 CPC is an exception to the Rule. The powers of the

Court under Order 1 Rule 10(2) CPC to strike out or add parties is very wide. The only condition for addition of the party is that in the absence of the party, complete and final adjudication of the lis is not possible.

7. Turning to the facts of the instant case, as stated earlier, in the entire Application the Petitioner has not even contended as to how he is concerned with the suit pending between the Plaintiff and the Defendants. Thus, the Petitioner is neither a necessary nor a proper party in the suit. There is no infirmity or illegality in the impugned order passed by the learned Additional District Judge.
8. The Petition is groundless; the same is accordingly dismissed with costs.
9. A copy of the order be sent to the Trial Court for information.
10. The Trial Court record be returned through Special Messenger under intimation to the Registrar General of this Court.

(G.P. MITTAL)
JUDGE

NOVEMBER 07, 2012

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