

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CM(M) No. 269/2025
CM No. 6101/2025

Parveen Akhter

.....Appellants

Through: Mr. Rajinder Jamwal, Advocate

Vs

Salima and ors.

..... Respondents

Through:

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
ORDER
30.09.2025

1. The petitioner has challenged order dated 09.01.2025 passed by learned Munsiff, Katra (hereafter referred to as "trial Court"), whereby the learned trial Court has allowed the application of respondent Nos. 2 & 3 herein under Order 1 Rule 10 CPC for their impleadment as defendants to the suit filed by petitioner No. 1 and co-plaintiff against respondent No. 1 (defendant) before the trial Court.

2. It appears that the plaintiffs have filed a suit for declaration before the learned trial Court impleading respondent No. 1 as a defendant. In the said suit, the plaintiffs have sought a declaration that plaintiff No. 1 is owner in possession of land measuring 04 kanals 19 marlas falling in khasra No. 349 and land measuring 03 kanals 02 marlas falling in khasra No. 360 situated at village Kundrorian Tehsil Katra District Reasi with consequential relief of permanent prohibitory injunction

restraining the defendants from interfering in plaintiffs' possession over the suit land.

3. During pendency of the suit, respondent Nos. 2 & 3 herein (applicants) filed an application under Order 1 Rule 10 CPC before the trial Court seeking their impleadment as defendants to the suit. In their application, the applicants/respondents pleaded that prior to the filing of the suit which is pending before the trial Court, a compromise decree has been passed in another suit titled '*Shoket Ali Vs. Fattu by Sub Judge, Katra*', whereby it has been agreed by the parties to the said suit that the land in question shall remain in possession of the plaintiffs therein i.e. the applicants. It is being submitted that the land which is subject matter of present suit was also the subject matter of the compromise decree.

4. Learned trial Court after hearing the parties has, vide impugned order dated 09.01.2025 allowed the said application and the applicants have been impleaded as the defendants. The petitioner has challenged the impugned order on the grounds that a plaintiff is a *dominus litus* and he/she has a choice as to whom he wants to array as a party and as such, the plaintiffs could not have been compelled to implead the applicants as the defendants by the trial Court. It has been contended that the compromise decree which is being relied upon by the applicants is not binding upon the plaintiffs as they were not party to the said suit. It has

also been contended that so far as the suit property is concerned, the same stands already granted to petitioner way back in 21.05.1985 as dower by her late husband Rashid Mohd. and Sh. Fattu who was defendant in the suit filed by respondent-Shoket Ali was a witness to the said act of granting the suit property to petitioner on account of dower. It has further been contended that the suit land is in possession of the petitioner since 1985 and the question with regard to her claim stands already settled which cannot be reopened by the applicants.

5. I have heard learned counsel for the parties and perused the record of case.

6. Order 1 Rule 10 CPC vests power with a civil Court to strike out or implead parties to suit pending before it. 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 effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added. A person whose presence may not be strictly necessary but it helps the Court to completely

adjudicate the issues in the Court qualifies to be a proper party and such person can also be impleaded as party by a Court.

7. Coming to the facts of the instant case, the plaintiffs have laid claim to the ownership and possession of the suit property on the basis that same has been granted to plaintiff No. 1/petitioner herein by her late husband as dower in the year, 1985 and in that capacity, she has become the owner in possession of the said property. The applicants claim that they have come into possession of the property in question on account of a compromise decree passed in a suit between them and one Fattu. Thus, to adjudicate the issue as to whether the plaintiffs have become owners in possession of the suit property, the presence of applicants is necessary because they have laid their claim to the suit property on the basis of a compromise decree in a suit in which the plaintiffs were not parties. The question whether plaintiffs are entitled to claim ownership and possession of the suit property cannot be decided without the presence of applicants/respondent Nos. 2 & 3 who have controverted and laid a contrary claim in respect of the suit property. The applicants are, therefore, necessary parties to the suit without whose presence, the issues involved in the suit cannot be adjudicated effectively nor can the decree that may be passed in the suit executed without their presence

8. The learned trial Court has appreciated the controversy in its right perspective and has exercised its jurisdiction in allowing the application of respondent Nos. 2 & 3 within the parameters of law. The order impugned, therefore, does not call for interference of this Court in exercise of its supervisory jurisdiction.

9. For the foregoing reasons, I do not find merit in this petition. The same is dismissed, accordingly.

JAMMU
30.09.2025
Tarun/PS

