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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CM(M) 368/2016**  
**MANISH KUMAR**

..... Petitioner

Through Mr.Shiv Charan Garg, Advocate.

versus

**OM PRAKASH & ANR**

..... Respondents

Through Nemo.

**CORAM:**  
**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

% **25.04.2016**

**C.M. No.14511/2016 (exemption)**

Exemption is allowed subject to just exceptions. Application disposed of.

**CM(M) 368/2016 & C.M. No.14510/2016**

Petitioner is aggrieved by the finding returned in the impugned order dated 03.02.2016 vide which his application filed by him under Order 1 Rule 10 of the CPC had been dismissed and rightly so.

The present suit is a suit for permanent which has been filed by the respondent no.1 Om Prakash against Manoj Jain (HUF). The averments of the plaintiff were that the plaintiff is a tenant in the suit property i.e. the shop No.28/10, Nangia Park, Shakti Nagar, Delhi at a monthly rent of Rs.120/- per month. The suit property had initially been taken on rent by the late father of the plaintiff and after his death

the rent receipts were being issued in the name of their mother Angoori Devi. The plaintiff has four brothers including the applicant Manish Kumar. Sometimes the rent was also being paid by Manish Kumar thereafter the brothers started their business separately at their respective places. The plaintiff is regularly paying rent to the defendant and the rent receipts were being issued in the name of Manish Kumar. In the written statement filed by the defendant he has pleaded that Manish Kumar was his tenant and not the plaintiff.

In the course of the proceedings, the present application came to be filed by the petitioner. Reply was filed by the plaintiff. Contention of the plaintiff is that his brother Manish Kumar is in collusion with the defendant.

While dealing with an application under Order 1 Rule 10 of the CPC the Court has to see whether the parties sought to be impleaded is either necessary or property without whom effective adjudication of the case cannot be done. Contention of the plaintiff that he is living in the suit property. Whether as a tenant or not, the Court shall adjudicate. However, it is clear that after 2013 the plaintiff is in exclusive possession of the suit property. This is in fact admitted by the petitioner/applicant before the Court. His submission, however, is that the tenancy was with him (Manish Kumar) and that is why the rent receipts were being issued in his name by the defendant.

Be that as it may, noting the nature of the suit, this Court is of the view that the impleadment of the present applicant would only derail the proceedings and would not help in an effective adjudication of the case. Needless to state that the petitioner is at liberty to stake

his claim against the suit property by way of a substantive petition.  
This petition is without any merit. It is dismissed with costs of  
Rs.10,000/-.

**INDERMEET KAUR, J**

**APRIL 25, 2016**

**ndn**