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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CM(M) 592/2015**  
**ARVIND KUMAR GOGIA**

..... Petitioner

Through Mr. Mahabir, Adv.  
versus

**NARINDER SHARMA**

..... Respondent

Through None.

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

**ORDER**

% **06.04.2016**

The petitioner is aggrieved by the order dated 13.03.2015 vide which the application filed by the defendant seeking impleadment under Order 1 Rule 10 of the CPC had been permitted.

Record shows that the present suit has been filed by the plaintiff Arvind Kumar Gogia against the defendant Narinder Sharma seeking possession and damages of the suit property. The suit property has been described as property bearing No.283 and 290/1 known as property No. 286 and 291 to 298 (land measuring 250 square yards) in Village Chandrawali known as in the abadi of Bhola Nath Nagar, Shahdara. Contention of the plaintiff is that the parties had entered into a lease deed dated 11.06.2012 by virtue of which the suit had been leased out to the defendant. Before the written statement could be filed, an application under Order 1 Rule 10 of the CPC came to be filed by the defendant. His submission was that his wife namely Nisha Sharma had entered into an agreement to sell qua this suit property with the plaintiff and the plaintiff had agreed to sell this

portion of the suit property for a total consideration of Rs.22 lacs which was in terms of agreement dated 19.06.2013. Consideration of Rs.20 lacs has already been received by the plaintiff. The agreement to sell entered into between the parties had been placed on record along with the application.

It was in this background that the application under Order 1 Rule 10 of the CPC was allowed of Nisha Sharma; the Court was of the view that the defence raised and sought to be pleaded would be elucidated by the impleadment of Nisha Sharma who was the wife of the sole defendant.

Learned counsel for the petitioner is aggrieved by the order. He has placed reliance upon I.L.R (1964) Cut. 510 as also another judgment of the Apex Court reported as AIR 2002 SC 1061 J.J. Lal. Pvt. Ltd. and others Vs. M.R. Murali and another to support his submission that in such an eventuality, application under Order 1 Rule 10 of the CPC is not maintainable.

This Court is not in agreement with this submission of the learned counsel for the petitioner. Each case depends upon its own factual matrix. The averments contained in the application under Order 1 Rule 10 of the CPC have been perused. It was filed by none other than the wife of the sole defendant and which was to the effect that an agreement to sell qua the same property had been entered into on 19.06.2013 between the plaintiff and Nisha Sharma and pursuant to which the party who was already in possession of the suit property continued to retain it. Out of total sale consideration of Rs.22 lacs, Rs.20 lacs has already been received by the plaintiff. Documents to

the said effect have also been filed along with the application.

The impugned order allowing the application thus suffers from no infirmity. Needless to state that while granting prayer made in an application under Order 1 Rule 10 of the CPC, the Court has to see whether the person sought to be impleaded is a 'necessary' or 'proper' party and whether his impleadment in the matter will throw light into the matter. This is clear answered in favour of the applicant Nisha Sharma.

This petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

**APRIL 06, 2016**

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