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

+ CM(M) 203/2016

MEENA JINDAL Petitioner

Through: Mr.P.K.Malik, Advocate

versus

AMRIT RANI & ANR Respondents

Through: Ms.Rashmi Bansal, Advocate for R-1
with Respondent No.1 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **22.05.2017**

1. The petitioner is aggrieved by the order dated 10th December, 2015 whereby the respondent Amrit Rani has been directed to be impleaded as defendant.

2. On behalf of the petitioner it has been contended that the Suit No.44/2015 was filed by the petitioner/plaintiff Meena Jindal without claiming any relief against the applicant/defendant. Plaintiff being *dominus litus* can decide who should be impleaded as party. Since no legal right of the petitioner/plaintiff Meena Jindal was affected by the action of the applicant who is neither owner nor in possession of the suit property, she could not have been impleaded by the learned Trial Court as defendant.

3. The application filed by the applicant/defendant Amrit Rani under Order I Rule 10 CPC for her impleadment as defendant has been allowed by the learned Trial Court for the following reasons:

(i) CS(OS) 826/2011 Amrit Rani vs. Meena Jindal & Ors. was pending in the High Court since 2011 wherein an interim order dated 4th April, 2011 has been passed restraining Meena Jindal (petitioner herein) from creating any third-party interest in the title and possession of the suit property

No.5968-69, First Floor, Block-3B, Gali No.3 & 4, Dev Nagar, Karol Bagh, New Delhi-110005. The petitioner Meena Jindal filed Civil Suit No.44/2015 without impleading Amrit Rani as party and by concealing the facts of the previous litigation.

(ii) The title documents in favour of Meena Jindal are disputed and subject matter of adjudication in the Civil Suit CS(OS) 826/2011.

(iii) The applicant Amrit Rani has also got registered a criminal case with respect to the title documents of the suit property which is also pending trial.

(iv) The petitioner/plaintiff has filed a suit for permanent and mandatory injunction and relief of injunction being equitable relief, the Court has to consider whether the plaintiff has approached the Court with the clean hands or after suppression of the material facts.

(v) The rights of the applicant Amrit Rani shall be vitally affected if she is not impleaded as party. The applicant Amrit Rani is a necessary party for effective adjudication of the controversy.

4. Under Order I Rule 10 (2) CPC, at any stage of the proceedings the Court has ample power to strike out the name of any party who has been improperly joined or allow such person to be joined whose presence before the Court is necessary in order to enable the Court to fully or completely adjudicate upon and settle the questions.

5. It is well settled that the scope of power of this Court under Article 227 of the Constitution is not in the nature of appellate jurisdiction and so, the extent and scope of power with this Court is limited and restrictive in nature. In the normal circumstance, it is exercised where there is want of jurisdiction, error of law or perverse findings by the trial Court. Such power is to be exercised to keep the subordinate court within limits of their

jurisdiction and authority and it is not to act as an Appellate Court for correcting the decisions of the subordinate courts. This court would not substitute its opinion or interfere with the findings of the facts of the trial Court, if there was no infirmity or perversity. Thus, in the absence of there being any material illegality or perversity, the order of the court below is not to be faulted with or interfered with by this court in its supervisory power under Article 227.

6. It has come on record that respondent Amrit Rani has already filed a civil suit claiming her title on the basis of title documents in respect of the suit property. The petitioner Meena Jindal is also claiming title in respect of the same property and has filed the Civil Suit No.44/20156 for seeking the relief of mandatory and permanent injunction. With a view to effectively adjudicate the matter in controversy between the parties as well to examine the conduct of the party who has approached the Court to seek equitable relief, learned Trial Court has rightly exercised the discretion by ordering impleadment of the applicant Amrit Rani as defendant, in the suit filed by the defendant in Suit No.44/2015.

7. Finding no illegality or perversity in the impugned order, the petition is dismissed.

8. No costs.

CM No.3976/2017 (stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 22, 2017

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