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

+ CM(M) 342/2016 & CM No.13310/2016(stay)

NAJMUS SAHAR

..... Petitioner

Through: Mr. S.D. Ansari with Mr. I. Ahmed,
Advts.

versus

PARVEZ LAIQ & ANR

..... Respondents

Through: Mr. K.R.Chawla, Adv. for R1.
Mr. Jitender Kumar, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **23.11.2017**

The petitioner is the plaintiff in CS.no.530/2014 that was instituted against the first respondent, he being impleaded as the sole defendant on the averments that he (petitioner) is the owner of the subject property in which the first respondent has been residing since 2006. It appears the suit has been resisted by the first respondent on the averments that the petitioner is neither the owner nor the landlord and that the property has actually owned by Anis Ahmed (second respondent) who had rented it out to the wife of the first respondent. The second respondent moved an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) seeking impleadment which has been allowed by the impugned order dated 28.10.2015.

It is the said impleadment which is under challenge by the present petition.

Having heard the learned counsel on both sides and upon perusal of the record, this court finds merit in the objection raised by the petitioner. The second respondent cannot be said to be either a necessary or proper party to the civil suit, the dispute wherein relates to the claim (over property) of the plaintiff on one hand and of the original defendant on the other. The second respondent cannot impose himself on the petitioner so as to convert the suit into one of title between himself and the latter. He, at best, would be a witness available to the first respondent during trial.

For the foregoing reasons, the impugned order is set aside. The application of first respondent seeking impleadment is dismissed. The petition is disposed of in these terms.

R.K.GAUBA, J

NOVEMBER 23, 2017/umang