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

+ C.R.P. 2/2017

Y K BHATIA

..... Petitioner

Through: Mr.Chinmay Pradip Sharma and
Mr.Vishal Balecha, Advocates.

versus

M/S SHALIMAR PAINTS LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.05.2017

C.R.P. No.2/2017

1. The petitioner Sh.Y.K.Bhatia has filed the instant revision petition under Section 115 of Code of Civil Procedure praying for deleting/striking off his name from the array of parties filed in Civil Suit No.100/2015.
2. None has appeared on behalf of the respondent despite service.
3. Learned counsel for the petitioner has submitted that in the memo of parties in Civil Suit No.100/2015, the petitioner Sh.Y.K.Bhatia has been shown as M.D. and Vice Chairman of the defendant company namely Gallium Industries Ltd. though he had already resigned from the Directorship of the defendant company on 15th December, 2014. Learned counsel for the petitioner has submitted that the above fact is established from the documents placed on record i.e. true typed copy of letter/intimation sent by the petitioner to the defendant company and true typed copy of notice sent by the defendant to the Registrar of Companies.

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4. Learned counsel for the petitioner has relied upon Tristar Consultants vs. Custoomer Services India Pvt. Ltd. & Anr. 139 (2007) DLT 688 wherein it was observed that in a suit for recovery of money, only such persons can be impleaded as defendants against whom averments are made which on proof would entitle the plaintiff to a decree whether jointly or severally or in the alternative against the said persons named as defendants.

5. A bare perusal of the plaint in Civil Suit No.100/2015 shows that infact the suit has been filed by the plaintiff M/s Shalimar Prints Ltd. impleading Gallium Industries Ltd. as defendant. In the entire plaint there is no averment made against the petitioner herein in his individual capacity. He has not been individually impleaded as a defendant as contended by learned counsel for the petitioner. However, claim of the petitioner that he was only a Director, is falsified from his own document i.e. notice of resignation to Registrar of Companies (Annexure-P4) wherein his designation has been referred as Managing Director and the category as promoter.

6. Since it not a case of fastening any individual liability on the Director of the Defendant company, the application under Order I Rule 10 CPC for deleting the name of petitioner from the array of parties of Civil Suit No. 100/15 did not lie.

7. The petition is dismissed.

CM No.246/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 18, 2017

'st'