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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 29th January, 2018

+ CM (M) 114/2018 and CM APPL.3420-3422/2018

SHRI MURARI LAL

..... Petitioner

Through: Mr. Mukesh M. Goel, Advocate

versus

SMT. SUMAN LATA & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is the plaintiff of the civil suit (CS No.58832/16) instituted by him on 17.08.2016, seeking decree of possession, damages and permanent injunction in respect of subject property described as Flat No.211, first floor, DDA Flats (SFS), Category-II, Munirka Vihar, New JNU, New Delhi, he having impleaded the first to fourth respondents as the defendants.

2. The petitioner (the plaintiff) states that the defendants are the legal heirs of Makhan Lal, who was his real brother, they being in unauthorized possession of the subject property. The fifth respondent had moved an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (CPC) seeking impleadment as a party on the ground that he also has an interest in the subject property since he is the son of Vijay Prakash, another brother of the plaintiff (and also of Makhan Lal), he (Vijay Prakash) having died on 22.06.1982.

3. The learned trial Judge by impugned order dated 04.12.2017 allowed the prayer for impleadment adding the fifth respondent as a defendant to the suit. The petitioner as plaintiff of the case takes exception on the ground that a party he did not chose to litigate with has been imposed on him.

4. Having heard the learned counsel for the petitioner and having gone through the record, this court finds no merit in the petition. The fifth respondent concededly is son of another brother of the plaintiff and of Makhan Lal, under whom the first to fourth respondents claim.

5. Given the nature of the dispute raised qua the defendants against whom the suit was filed, the fifth respondent, in the opinion of this court, is at least a proper party, if not a necessary party, in as much as, he also has a stake or claim in the subject property. It is the exclusivity of the interest, right or title of the plaintiff of the case in such property which would be the core issue at the trial and, therefore, the impleadment of the fifth respondent cannot be grudged.

6. In view of the above facts and circumstances, the petition is found to be devoid of substance and is dismissed *in limine* with costs of Rs.20,000/-, to be deposited with Delhi High Court Legal Services Committee within a week.

7. The applications filed therewith are rendered infructuous and are dismissed accordingly.

R.K.GAUBA, J.

JANUARY 29, 2018/vk