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

+ **CM(M) 202/2021**

VIJENDER TANWAR

..... Petitioner

Through: Mr.U.M. Tripathi, Mr. Haroon
Mohd, Advs. with Petitioner in person

versus

GIRWAR (NOW DECEASED) THROUGH LR AND ANR

..... Respondents

Through: Mr. V.S. Rana, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

12.10.2022

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1. By order dated 7th January 2020, passed by learned Civil Judge-02 in CS 135/2016 (*Girwar vs. Padma Mehant*), the learned Civil Judge has dismissed an application filed by the petitioner under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 seeking to be impleaded in the suit.

2. The impugned order reads thus:

“1. By this order I shall dispose of the application U/o 1 Rule 10 CPC filed by the applicant Vijender Tanwar.

2. The brief facts necessary for disposal of the present application are that Vijender Tanwar alleges that he purchased the suit land from one Sh. P.D. Aggarwal by way of GPA, Agreement to Sell, Affidavit, Will, Indemnity Bond, receipt and possession letter dated 06.08.2010. It is pertinent to note that in the present suit. Sh.P.D. Aggarwal also filed an application U/o 1 Rule 10 CPC for impleading him as a party and the said application was dismissed by my Ld. Predecessor vide order dated 02.08.2016 with cost of Rs. 25,000/-. Sh.P.D.

Aggarwal did not file any appeal/review/revision against the said order and the said order has attained the finality. Thus, once Sh. P.D Aggarwal was not impleaded as a party, the present applicant Sh. Vijender Tanwar who claims to derive interest in the suit land Sh. P.D. Aggarwal cannot be impleaded as a party in the present suit. Accordingly, the application under consideration is dismissed with cost of Rs.5000/-

Put up for PE/further proceedings for 06.03.2020.”

3. A reading of the impugned order reveals that the learned Civil Judge has not returned any findings on the petitioner’s application. The only ground learned on which the learned Civil Judge rejected the present application is that the petitioner was claiming title through P.D. Aggarwal, who had also sought impleadment in the suit by way of a application under Order 1 Rule 10 of the CPC which was dismissed on 2nd August 2016. On the premise that the order dated 2nd August 2016 passed on the application of P.D. Aggarwal under Order 1 Rule 10 had attained finality, the petitioner’s application has been dismissed without any reasons.

4. It is well settled that judicial order is not binding on persons who are not parties thereto. It is well settled that a judicial order binds only the parties to the said order and not anyone else, unless it is an order *in rem*.

5. One may refer in this context to ***Bengal Ambuja Housing Development Ltd. v. Pramila Sanfui***¹.

¹ (2016) 1 SCC 743

6. The petitioner, admittedly, was not a party in the application filed by P.D. Aggarwal under Order 1 Rule 10 of the CPC. The petitioner was, therefore, not heard when the said application was dismissed. The petitioner cannot, therefore, be bound by the dismissal of the said application.

7. The learned Civil Judge was required, therefore, to record reasons for rejecting the petitioner's application. Even if the learned Civil Judge was of the view that the petitioner's application should meet the same fate as the application filed by P.D. Aggarwal, a finding to that effect was to be returned by the learned Civil Judge with reasons therefor.

8. Merely on the ground that the application of P.D. Aggarwal had been dismissed, the petitioner's application could not have been dismissed without any reasons.

9. It is submitted at the Bar that the matter is next listed before the learned Civil Judge on 17th October 2022.

10. As such, the impugned order dated 7th February, 2020 is quashed and set aside.

11. The learned Civil Judge is requested to hear both parties and consider the petitioner's application under Order I Rule 10 of the CPC afresh, keeping in view the observations made hereinabove.

12. This Court makes it clear that it does not express any view on whether the petitioner is or is not entitled to be impleaded as a party in

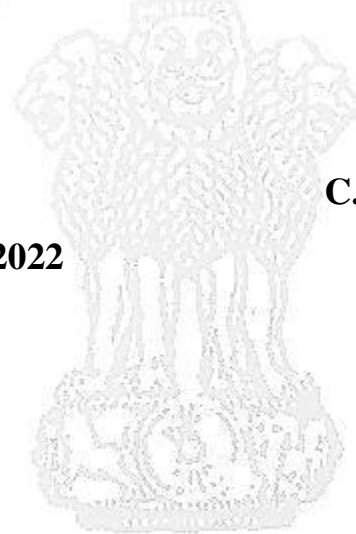
CS 135/16. Equally, the court has not expressed the view as to whether the order dated 2nd August 2016, passed on the application under Order 1 Rule 10 of the CPC filed by P.D. Aggarwal would or would not apply *mutatis mutandis* to the case of the petitioner.

13. Both sides are at liberty to address arguments on this aspect on the next date of hearing following which the Civil Judge would take a decision thereon in accordance with law as simultaneously as possible.

14. With the aforesaid observations, this petition is disposed of.

C. HARI SHANKAR, J

OCTOBER 12, 2022
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