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

Date of decision: 08.08.2023

+ **CM(M) 1265/2023 & CM APPL. 40385/2023 & 40386/2023**

KANTA YADAV

..... Petitioner

Through: Mr. Siddharth Singh, Advocate
(through VC)

versus

GANGA VIHAR COLONY & ORS.

..... Respondents

Through: None

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 18.08.2022 passed by the Civil Judge-II, South West District, Dwarka Courts, New Delhi ('Trial court') in CS SCJ No. 818/2019, whereby the Trial Court allowed the application filed by the Respondent No.5 herein under Order 1 Rule 10 Code of Civil Procedure, 1908 ('CPC') and consequently, impleaded the Respondent No.5 as defendant No.2 in the civil suit.

1.1 The Petitioner herein is the original defendant No.1. The Respondent Nos.1 to 4 are the original plaintiffs in the suit, The Respondent No.5 has been arrayed as newly impleaded defendant no.2 in the said suit.

2. The civil suit has been filed by the plaintiffs challenging the sale deed relied upon by defendant No.1 with respect to the subject property.



3. The learned counsel for the Petitioner states that he does not dispute the newly impleaded Respondent No.5 is a necessary and a proper party, he however, states that Respondent No.5 should have been impleaded as a co-plaintiff and not as a co-defendant.

3.1 He states that the interest of defendant No.2 are adverse to defendant No.1. He states that defendant No.2 is relying upon the sale deed to defeat the claims of defendant No.1.

3.2 He states that there are several legal proceedings pending inter-se between defendant No.1 and defendant No.2.

4. This Court has heard the learned counsel for the Petitioner and perused the record.

5. The impugned order dated 18.08.2022 records that the plaintiffs had no objections to the application of impleadment being allowed and accordingly, the said application was allowed by the Trial Court after opining that the defendant No.2 is a necessary party.

6. As noted hereinabove, the Petitioner as well has not challenged the fact that the newly impleaded defendant No.2 is a necessary party in view of her assertion that she has purchased the subject property *vide* sale documents dated 01.04.2015.

7. In view of the aforesaid facts, this Court is of the opinion that there is no infirmity in the impugned order of the Trial Court allowing the application. The concern of the Petitioner herein that there are inter-se disputes between defendant No.1 and defendant No.2 can be addressed by permitting the defendant No.1 herein to file an additional pleading as contemplated in Order 8 Rule 9 of CPC for limited purpose of rebutting the stand taken by the defendant No.2 in her written statement. The right to file the said additional

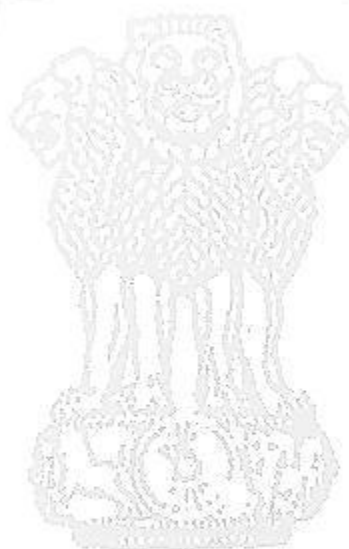


pleading will be governed by the law laid down by this Court at paragraph 22 in **Kedar Nath & Ors. v. Ram Parkash & Ors 1999 (48) DRJ (FB)**.

8. With the aforesaid observations, the present petition is disposed of, upholding the order dated 18.08.2022 passed by the Trial Court. Pending applications are also stand disposed of.

MANMEET PRITAM SINGH ARORA
(JUDGE)

AUGUST 8, 2023/rk/aa



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