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

% ***Date of decision: 30th September, 2024***

+ **CM(M) 3510/2024 & CM APPL. 57376-57377/2024**

VIMLA

.....Petitioner

Through: **Mr. Ashu Agarwal and Mr. Anshu Bhardwaj, Advocates**

versus

SANJAY SINDHANI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 57377/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3510/2024 & CM APPL. 57376/2024

1. Petitioner is defending a suit for possession, arrears of rent, damages and mesne profits.
2. The case was at the stage of plaintiff's evidence when an application under Order I Rule 10 r/w Section 151 CPC was moved by the defendant whereby she requested that Ms. Pooja Pahuja be impleaded as defendant no. 2 in the present matter.
3. Plaintiff, when the above-said suit had been filed, relied upon one registered *Will* dated 20.12.2012 executed by his late mother and contended that on the basis of such *Will* and after the death of his mother in the year 2015, he had got power and authority to deal with the said property and



resultantly, inducted the defendant as his tenant.

4. It seems that relying on the same very *Will*, the tenant/defendant moved an application seeking impleadment of one Pooja Pahuja (daughter of testatrix) claiming that the aforesaid property could only *be used for the benefit and welfare of such Ms. Pooja Pahuja and no one else had any right to sell, transfer or dispose of the property during her lifetime.*

5. As already noticed above, the plaintiff himself had also made reference about the aforesaid *Will* when the above-said suit for ejectment was filed.

6. The aforesaid application moved by the defendant/tenant under Order I Rule 10 CPC has been dismissed and it is in the above-said factual matrix that the present petition has been filed.

7. Needless to say that the suit is merely for ejectment and recovery of rent arrears, damages and mesne profits. It is not a title suit from any angle whatsoever.

8. Moreover, it's a cardinal principle of law that any such plaintiff is *Dominus litis* and he cannot be compelled to sue a person against whom he does not seek any relief.

9. Since plaintiff himself has, in a very transparent manner, relied upon the same *Will* and has merely created a tenancy which can always be assumed for the welfare and benefit of such Ms. Pooja Pahuja, it is quite apparent that there is no perversity or illegality of any kind in the impugned order.

10. The observations made by the learned Trial Court in Para-6 are fully justifiable which read as under: -

“.....

The primary ground on which the applicant seeks impleadment is that proposed defendant is the owner / beneficiary of the suit premises. The present suit having been filed for eviction of a tenant, the question of title to



the suit property is not material for effective disposal of the present suit. The proposed defendant cannot be said to be a necessary/proper party merely on the ground that there exists rival contentions as to the ownership of the suit property. The material test herein is not whether the party sought to be impleaded can be a witness to a relevant fact in issue, rather it is whether the presence of the proposed defendant is necessary/proper for effective disposal of the suit. Merely because the proposed defendant can be a 'good witness' to a case it would not necessarily mean that she is necessary or proper for the effective disposal of the case. Impleadment of the proposed defendant in the present suit for eviction would have be prejudicial effect of converting the simple suit for eviction into a complex suit of title, which cannot be permitted in the eyes of law. [See. J.J. Lal Pvt. Ltd. & Ors. Vs. M.R. Murali & Ors. (2002) 3 SCC 98]."

11. Viewed thus, there is no merit and the substance in the present petition as there is no real requirement of impleading Ms. Pooja Pahuja as a party to the present petition which merely seeks possession and arrears of rent.
12. Petition is hereby dismissed.

(MANOJ JAIN)
JUDGE

SEPTEMBER 30, 2024/dr