



was, inter alia, asserted that while making preparations to file affidavit in lieu of examination-in-chief the plaintiff learnt that the defendant has without the permission of the landlord, sublet the suit premises to his brother Dinesh Jain. Copies of the Aadhar Cards of defendant and Dinesh Jain were pressed into service to show that the defendant no.1 was not using the suit premises but it was sublet to Dinesh Jain.

4. The learned Judge was persuaded to allow the application observing, inter alia, that prima facie it appears that Dinesh Jain was in the occupation of the suit premises, and, therefore, it was necessary to permit the plaintiff to amend the plaint so as to decide all questions in controversy between the parties.

5. The learned counsel for the petitioner would urge that there was no due diligence on the part of the plaintiff. The plaintiff had known from before that Dinesh Jain who is the brother of defendant has been residing in the suit premises. Yet, on the basis of a false assertion the amendment was sought to be incorporated so as to drag the brother of the defendant into the suit. It was submitted that Dinesh Jain, being a brother and family member of defendant, can never be termed a sub-tenant.

6. I have perused the material on record. The Trial Court took into account the fact that the copies of the Aadhar Cards indicated that the address of the defendant was different than the suit premises and that of Dinesh Jain at the suit premises. On the basis of prima facie material on record, the Trial Court found it expedient to implead defendant no. 2 who is the in occupation of the suit premises.

7. The question as to whether the defendant has, in fact, sublet the suit premises to Dinesh Jain or the later had been in the occupation of the suit premises is a matter of merit. It is well recognized that the merits of the assertion sought to be incorporated by way of amendment in the pleadings cannot be delved into at the stage of deciding an application for amendment.

8. In the circumstances of the case, the presence of defendant no.2 who is indisputably in the occupation of the suit premises appears necessary for an effectual and complete adjudication of all the questions in controversy between the parties. Whether, the defendant no. 2 occupies the suit premises as a subtenant or in the capacity as a family member of the defendant is a matter for adjudication at the Trial.

9. In these circumstances, there is no infirmity in the impugned

order.

10. The petition thus stands dismissed.

(N.J. JAMADAR, J)