Sr. No. 84

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court

Case: LPA No. 236/2026 in
[WP(C) No. 1732/2026]
CM No. 7851/2026
CAV No. 3035/2026

Date of Pronouncement : 04.11.2026

Uploaded on : 05.11.2026

Rosmetra Technologies Limited .....Appellant(s)/Petitioner(s)

Through :- Mr. Pranav Kohli, Sr. Advocate with
Mr. M. Anis Ul Islam, Advocate,
Ms. Avantika Sharma, Advocate,
Mr. Mustafa Sajad, Advocate,
Mr. M Momin Khan, Advocate.

v/s

UT of J & K and others .....Respondent(s)

Through :- Ms. Meenaskhi Salathia, Dy. AG for R-1&2.
Mr. Dewakar Sharma, Dy. AG for R-3.

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER (ORAL)

1. The senior counsel for the appellant, at the threshold, has taken this court to Annexure-III, which is a Public Notice dated 25.02.2026, which has been issued by the Govt. of Jammu & Kashmir, Office of Transport Commissioner, J&K, Jammu.

2. Learned senior counsel submits that since the controversy was emanating out of this Public Notice, therefore, the appellant had impleaded the office of Transport Commissioner, through Transport Commissioner, Govt. of J&K as respondent No.2 in his writ petition, but the Hon'ble Court has proceeded on a premise that the respondent No.2 is a non-entity to stay on board and once

deleted from the array of respondents, the relief sought in the writ petition relatable to the non-entity of respondent no.2 was rendered infructuous in this petition.

3. Learned senior counsel submits that the jurisprudence of non-joinder and misjoinder is very clear, as if it is a misjoinder then it would not entitle the other party to seek dismissal of the matter and rather appropriate joinder can be permitted by the Court and can also be condoned at the instance of the Court.

4. Learned senior counsel further submits that though non-joinder of necessary party is a good ground for dismissal of the writ petition, but that also has to happen only once the party refuses to implead the necessary party and an absolute non-joinder is faced by the Court.

5. Learned senior counsel further submits that none of the aforesaid situation was prevailing in the present circumstances and, therefore, the dismissal of the writ petition only on account of the fact that there was a non-joinder and the prayer itself was not therefore maintainable, is not a correct proposition of law. Learned Senior counsel in support of his submissions relied upon para 12 of the judgment of the Hon'ble Apex Court in *"Chief Conservator of Forests, Govt. of A.P. v. Collector & ors."* reported at (2003) 3 SCC 472, which reads as follows :

> *"12. It needs to be noted here that a legal entity – a natural person or an artificial person – can sue or be sued in his/its own name in a court of law or a Tribunal. It is not merely a procedural formality but is essentially a matter of substance and considerable significance. That is why there are special provisions in the Constitution and the Code of Civil Procedure as to how the Central Government or the Government of a State may sue or be sued. So also there are special provisions in regard to other juristic persons specifying as to how they can sue or be sued. In giving description*

of a party it will be useful to remember the distinction between misdescription or misnomer of a party and misjoinder or non-joinder of a party suing or being sued. In the case of misdescription of a party, the court may at any stage of the suit/proceedings permit correction of the cause title so that the party before the court is correctly described; however, a misdescription of a party will not be fatal to the maintainability of the suit/proceedings. Though Rule 9 of Order I of C.P.C. mandates that no suit shall be defeated by reason of the misjoinder or non-joinder of parties, it is important to notice that the proviso thereto clarifies that nothing in that rule shall apply to non-joinder of a necessary party. Therefore, care must be taken to ensure that the necessary party is before the court, be it a plaintiff or a defendant, otherwise, the suit or the proceedings will have to fail. Rule 10 of Order I C.P.C. provides remedy when a suit is filed in the name of wrong plaintiff and empowers the court to strike out any party improperly joined or to implead a necessary party at any stage of the proceedings."

6. After hearing learned senior counsel on the limited issue, which is there in the impugned order, this court is of the firm opinion that the endeavour of the court should be to permit the parties to be flexibly impleaded as per the requirement of the merits of the case, or to cure the same. The court itself can implead any of the parties and merely on such grounds that a party was not impleaded in a proper manner cannot be a ground for dismissal of writ petition. Moreover, we have also seen Annexure-III, which reads of the status of respondent no.2, prima facie, being a party to the litigation.

7. The jurisprudence of joinder, misjoinder and non-joinder is a separate jurisprudence and these are only enabling provisions to ensure that proper adjudication with the assistance of the parties is made and the legislative intention behind this concept is not to exclude any of the parties from adjudication but is to have an inclusive approach. The multiple parties in the

jurisprudence which has emanated out of the fact that cause of action at various times is relatable to the number of authorities or number of persons, such joinder is a settled principle of law.

8. In light of the aforesaid observations, the impugned order is quashed and set aside. The matter is restored to its original number. The interim order, which was granted on 06.06.2026, shall also remain in currency until the same is adjudicated by the Hon'ble Single Bench itself.

9. List the writ petition WP(C) No. 236/2026 before the learned Single Bench on 01.12.2026.

10. The appeal is disposed of.

(RAJNESH OSWAL)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

JAMMU
04.11.2026
Pawan Angotra

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

Whether the order is speaking? : Yes/No

Whether the order is reportable? : Yes/No

Pawan Angotra
2026.11.05 17:18
I attest to the accuracy and
integrity of this document