

300 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-6809-2024

Date of decision : 28.01.2026

ALANKAR MITTAL AND ORS

....Petitioners

Versus

M/S RAGHAV MOTORS AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amulya Dhingra, Advocate
for the petitioners.

Mr. B.S. Khehar, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

Challenge is to the order dated 17.07.2024 passed by Civil Judge (Junior Division), Kapurthala whereby application filed by the petitioners/defendants No.2 to 5 seeking deletion of their names from array of parties, stands dismissed.

2. Plaintiff/respondent filed suit seeking rendition of accounts. As per the pleadings, the plaintiff claimed to be appointed distributor of defendant No.1/company. Defendants No.2 to 5 are the officials of the company. In memo of parties, they have been described as under:

1. **MR. ALANKAR MITTAL**, AGE 52 YEARS, VICE
PRESIDENT M/S LIVGUARD ENERGY
TECHNOLOGIES PVT LTD 221, UDYOG VIHAR



PHASE-1, GURUGRAM, HARYANA- 122016. ADHAR NO:693590477773 MOBILE NO:9810433103.

2. **MR. VIKAS ARORA**, AGE 49 YEARS, GENERAL MANANGER M/S LIVGUARD ENERGY TECHNOLOGIES PVT LTD 221, UDYOG VIHAR PHASE-1, GURUGRAM, HARYANA- 122016. ADHAR NO:503655974567 MOBILE NO:9810408565.
3. **MR. MUNISH ANAND @ MANISH ANAND**, AGE 37 YEARS, AREA SALES MANAGER M/S LIVGUARD ENERGY TECHNOLOGIES PVT LTD 221, UDYOG VIHAR PHASE-1, GURUGRAM, HARYANA- 122016. ADHAR NO: 397272497468 MOBILE NO:9419195008.
4. **MR PRASHANT AGGARWAL @ PRASHANT AGARWAL**, AGE 45 YEARS, LEGAL HEAD M/S LIVGUARD ENERGY TECHNOLOGIES PVT LTD 221, UDYOG VIHAR PHASE-1, GURUGRAM, HARYANA- 122016. ADHAR NO:614631514419 MOBILE NO:9971043215

3. The averments made in the plaint *qua* them, read as under:

3. That various Livguard inverter and batteries and other related products of LETPL are still lying with plaintiff. These products are of no use to plaintiff as his distributorship has already been revoked by LETFL. Plaintiff made various requests and demands to LETPL to take back these products and settle its account. Plaintiff personally requested Sh. Manish Anand, Area Manager of LETPL and Sh. Vikas Arora General Manager of LETPL to take back their products and settle the accounts. However, despite repeated demands and requests LETPL are not taking back its products and are not adjusting its amount in account books.

6. That plaintiff personally visited Sh. Alankar Mittal Vice President LETPL and Sh. Vikas Arora General Manager of LETPL



on 26/03/2023 and requested them to get recover huge amount of plaintiff stuck with dealership of LETPL and take back their products and settle the accounts To which Sh. Alankar Mittal vice president LETPL and Sh. Vikas Arora General Manager of LETPL assured the plaintiff that they will got recover huge amount of plaintiff from the new distributorship of LETPL. However, Sh. Alankar Mittal vice president LETPL and Sh. Vikas Arora General Manager of LETPL back out from their commitments and failed to get recover amount of plaintiff and to settle account with plaintiff. The huge amount of plaintiff is still stuck with the dealership of LETPL. LETPL is also not taking back its products lying with plaintiff and not settling its account with plaintiff.

4. Defendants No. 2 to 5 filed an application under Order I Rule 10 CPC seeking deletion of their names from array of parties, claiming that they are neither necessary nor proper parties and have been improperly added and impleaded in the suit.

5. The application stands rejected by the Trial Court observing that in the absence of any plausible material and in the light of circumstances of the case, the names of defendants No.2 to 5 cannot be struck down from the array of parties at this stage as the plaintiff has claimed relief against all the defendants.

6. Counsel for the petitioners has assailed the findings recorded by the Trial Court in the impugned order. He submits that the relief clause of the plaint would reveal that the suit is for rendition of accounts and for a decree of permanent injunction restraining defendants from misusing blank signed cheques bearing No.450743 to 460753 drawn on Indian Bank, The



Mall, Kapurthala. He submits that the cheques have been issued in favour of the Company/defendant No.1. The rendition of accounts is an issue between the company which is a *juristic persona* and the distributor i.e., plaintiff. Merely for the reason that in the plaint there are certain pleadings w.r.t. plaintiff visiting the officials of the company, they cannot be held to be necessary or proper parties. He thus submits that the Trial Court misdirected itself in dismissing the application filed under Order I Rule 10 CPC seeking deletion of the names of the petitioners from the array of parties.

7. Per contra, Mr. Khehar submits that the fact of the petitioners i.e., defendants No.2 to 5 being officials of defendant No.1/company, is not in dispute. In the plaint, plaintiff has prayed for grant of decree of permanent injunction against all the defendants from misusing the cheques which includes the present petitioners. Thus, it cannot be said that the petitioners are neither necessary nor proper parties.

8. I have heard counsel for the parties and have gone through records of the case.

9. In order to appreciate the rival contentions raised by counsel for the parties, it will be apt to peruse Order I Rule 10 CPC which reads as under:

ORDER I
Parties to Suits

10. Suit in name of wrong plaintiff.—(1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied



that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) Court may strike out or add parties.—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

10. In terms of Order I Rule 10(2) CPC, the Court may at any stage of the suit add or strike out the name of a party which has been improperly joined or is required to be joined in the array of parties. It may be either necessary or proper party to the suit.

10.1. The issue w.r.t. necessary or proper party has been explained by Five Judges Bench of Supreme Court in the case of **U.P. Awas Evam Vikas Parishad vs. Gyam Devi (dead) by L.Rs. (1995) 2 SCC 326**, observing as under:

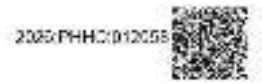
“22. xxx xxx xxx That raises the question whether the local authority can be regarded as a necessary or a proper party. The law is well settled that a necessary party is one without whom no order can be made effectively and a proper party is one in whose absence an effective order can be made but whose presence is necessary for



a complete and final decision of the question involved in the proceeding. (See: *Udit Narain Singh Malpaharia v. Additional Member, Board of Revenue, [1963] Supp. 1 SCR 676, at p. 681*. A local authority for whom land is being acquired has a right to participate in the acquisition proceedings in the matter of determination of the amount of compensation while they are pending before the Collector and to adduce evidence in the said proceedings. While it is precluded from seeking a reference against the award of the Collector it can defend the award and oppose the enhancement of the amount of compensation sought before the reference court by the person interested in the land. Moreover the local authority has a right to appear and adduce evidence before the reference court. Having regard to the aforesaid circumstances, we are of the opinion that the presence of the local authority is necessary for the decision of the question involved in the proceedings before the reference court and it is a proper party in the proceedings. The local authority is, therefore, entitled to be impleaded as a party in the proceedings before the reference court.”

11. It being a case primarily for rendition of accounts, issue is between the company and its distributor. Admittedly, the cheques have been drawn in favour of the company, this Court finds that the Trial Court erred in dismissing the application under Order I Rule 10 CPC and deciding the same without even referring and resorting to the pleadings raised in the plaint.

11.1. From the pleadings raised in the plaint, it is evident that apart from averments *qua* meeting the present petitioners, no relief has been prayed for against the petitioners. The company i.e., respondent No.1 is a registered company. It is a *juristic persona*. Defendants No.2 to 5



merely being officials, this Court finds that they are neither necessary nor proper parties.

11.2. Trite it is that the plaintiff is the *dominus litis* and is entitled to choose the persons against whom relief is sought. However, the principle cannot be extended to include parties which are not necessary or proper party.

11.3. In the present case, the suit is for rendition of accounts & consequential injunction arising out of a commercial relationship between the plaintiff and defendant No.1, which is a *juristic* persona. Admittedly, the cheques have been drawn in favour of the company. Defendants No.2 to 5 have been impleaded only on account of their official positions and no independent relief has been claimed against them. Thus, even while the plaintiff being *dominus litis* this Court is satisfied that defendants No.2 to 5 are neither necessary nor proper parties to the suit.

12. In view of above, the instant revision petition is allowed.

13. The impugned order is hereby set aside. Application filed by the petitioners, under Order I Rule 10 CPC is allowed.

January 28, 2026					(Pankaj Jain)
Dpr					Judge
	Whether speaking/reasoned	:		Yes/No	
	Whether reportable	:		Yes/No	