



127 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-9095-2025 (O&M)
Date of decision : 05.02.2026

SHRAYANSH JAIN

....Petitioner

Versus

M/S ALGEBRA CONSTRUCTION & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vilas Sharma, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

Present revision petition is directed against order dated 07.07.2025 passed by Commercial Court whereby the application filed by the petitioner, under Order I Rule 10(2) CPC, seeking deletion of his name from the array of parties, has been dismissed.

2. Petitioner has been arraigned as defendant No.5 in a suit for specific performance filed by plaintiff/respondent. An application was moved by the petitioner/defendant No.5 seeking deletion of his name. As per the petitioner, he is neither a party to the collaboration agreement propounded by the plaintiff nor has acted in his personal capacity. Thus, he can neither be claimed to be a necessary nor proper party.



3. The application was opposed by the plaintiff asserting that defendant No.5 is necessary and proper party being director of defendant No.1 and his presence is necessary for proper adjudication of the suit.

4. Application filed by the plaintiff stands dismissed by the Trial Court referring to the specific allegations levelled in the plaint.

5. Counsel for the petitioner has assailed the order passed by the Commercial Court. He asserts that the plaint is totally bereft of any allegation levelled against defendant No.5 in person. Defendant No.5, the petitioner having acted only as a Director of the company is neither necessary nor proper party for adjudication of the matter in hand and thus he cannot be allowed to face the ordeal of trial.

6. I have heard counsel for the petitioner and have gone through records of the case.

7. The argument raised by counsel for the petitioner w.r.t. there being no allegation levelled against the petitioner, is against the record and is misconceived. Reference can be made to the pleadings raised in Para No.12, 17, 18, 19 & 20 of the plaint wherein the grievance of the plaintiff is w.r.t. actions taken by defendant No.5 in person and *qua* his interference in construction.

8. It is true that Order I Rule 10 CPC is an exception to the principle of *dominus litis* and the plaintiff cannot be allowed to implead



someone unnecessarily. However, the plaintiff is well within his right to implead a party which is necessary and proper for the adjudication of the *lis*.

9. The test to ascertain the necessary and proper party has been laid down 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.*

(emphasis supplied)

10. Applying the aforesaid ratio, this Court finds that even if the plea raised by the petitioner w.r.t. him not being a necessary party is accepted, it cannot be held that he is not a proper party.

11. In view of above, finding no merit in the present revision petition, the same is ordered to be dismissed.

12. Pending application, if any, shall also stands disposed off.

February 05, 2026
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No