



2026:DHC:580



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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 17th January, 2026**Date of Decision: 23rd January, 2026*

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CM(M) 240/2023 & CM APPL. 7125/2023**SMT. NITA BHAGAT**

.....Petitioner

Through: Mr. Vineet Kumar, Adv.

versus

M/S TARINI HOSPITALITY SERVICES & ANR.....RespondentsThrough: Mr. Abhimanyu Garg, Mrs. Preeti
Makkar and Ms. Beauty Tamut, Advs.
for R-2/EIL.**CORAM:****HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****ORDER**

1. The present petition has been filed by the Petitioner under Article 227 of the Constitution of India seeking setting aside of the order dated 05th January, 2022 (hereinafter referred to as the "Impugned Order"), passed by the learned Trial Court in CS No. 378/2019, whereby the application filed by respondent no. 2 under Order I Rule 10 of the Code of Civil Procedure, 1908 has been allowed and respondent no. 2 was deleted from the array of parties.
2. Briefly, the facts of the case are that the petitioner/plaintiff instituted a suit for recovery of a sum of Rs. 2,96,631/- along with interest against the respondents. In the plaint, the petitioner has made the averments that the petitioner is engaged in the house-keeping services industry. In April, 2017, the respondent no. 1 approached the petitioner for providing services and



supply of materials/tools to corporate and partner units, particularly to respondent no. 2. Pursuant thereto, the petitioner supplied house-keeping materials to respondent no. 2 as per its demands. The petitioner regularly raised bills and invoices to respondent no. 1, the details whereof are stated in paragraph 6 of the plaint. For the services rendered and goods supplied by the petitioner to respondent no. 2, part-payments were received. However, as now a sum of Rs. 2,48,227/- still remains outstanding towards the respondents. Despite repeated requests and demands made by the petitioner, the said amount has not been paid till date. Hence, the present suit for recovery has been filed.

3. Learned counsel for the petitioner has argued that the trial court has passed the impugned order on the basis of surmises and conjectures, which is against the facts and law. It is argued that respondent no. 2 is a necessary party in the present suit, as his presence is necessary in order to enable the court to decide the questions involved in the suit. It is the respondent no. 2 who has actually received the house-keeping services from the petitioner, and the present suit has been filed to claim the amount for the services provided to respondent no. 2.

Per Contra, learned counsel for respondent no. 2 has argued that the trial court has passed the impugned order after due consideration of the material on record. There is no illegality or infirmity in the impugned order as there is no privity of contract between the petitioner and respondent no. 2. The respondent no. 1 had introduced the petitioner as a vendor/sub-contractor for supply of materials and services. Respondent No. 2 made payments only to Respondent No. 1 against the invoices raised by Respondent No. 1 and never received any invoice from the petitioner. It is further argued that respondent



no. 2 was impleaded only to create territorial jurisdiction of the suit. The arguments of the petitioner are without any merits and the petition is liable to be dismissed.

4. I have heard learned counsel for the parties and perused the record.

5. Order I of the Civil Procedure Code, 1908 deals with parties to the suit. Rule 10(2) deals with power of court to strike out or add the parties. It read as under:

“(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.”

The Hon’ble Supreme Court in **Anil Kumar Singh v. Shivnath Mishra, (1995) 3 SCC 147**, while interpreting Order I Rule 10(2) of the Code of Civil Procedure, 1908, observed as under:

“7. By operation of the above-quoted rule though the court may have power to strike out the name of a party improperly joined or add a party either on application or without application of either party, but the condition precedent is that the court must be satisfied that the presence of the party to be added, would be necessary in order to enable the court to effectually and completely adjudicate upon and settle all questions involved in the suit. To bring a person as party-defendant is not a substantive right but one of procedure and the court has discretion in its proper exercise. The object of the rule is to bring on record all the persons who are parties to the dispute relating to the subject-matter



so that the avoid dispute may be determined in their presence at the same time without any protraction, inconvenience and to avoid multiplicity of proceedings.”

6. The operative portion of the impugned order dated 05th January, 2022 is reproduced as under:

“6. In the instant matter, carefully perusal of the plaint reveals that plaintiff has not specifically claimed any relief against defendant no.2. Even in the plaint, it is written that defendant no.2 paid to defendant no. 1 and it was defendant no.1 who never paid to plaintiff. Nowhere in the plaint, it has been clearly stated as to how defendant no.2 is liable for the recovery claimed by plaintiff in the present suit. Further, the invoices raised by plaintiff are in the name of defendant no.1 and does not bear any signature or stamp of defendant no.2. It is further to be noted that plaintiff has not placed any agreement or contractor correspondence with defendant no.2 which may have indicated that defendant no.2 had any liability towards plaintiff.”

7. After considering the case of the petitioner as made out in the plaint, this Court is of the view that the relief of recovery claimed by the petitioner is mainly against the respondent no. 1. The petitioner supplied house-keeping services to respondent no. 2 on the directions of the respondent no. 1 and the invoices/bills raised by the petitioner were payable by the respondent no. 1. In the absence of any privity of contract between the petitioner and respondent no. 2, the cause of action, as pleaded, arises only against the respondent no. 1. The presence of the respondent no. 2 is not necessary for effective and complete adjudication of the issues involved in the suit.

8. In view of the foregoing discussion of facts and law, this Court finds no infirmity or illegality in the impugned order warranting any interference under Article 227 of the Constitution of India. The impugned order is



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accordingly upheld as it is a reasoned order passed in accordance with the law. The present petition is dismissed being devoid of any merits, along with pending application(s), if any.

RAJNEESH KUMAR GUPTA, J

JANUARY 23, 2026/sds/tp

Signature Not Verified

Signed By: VAIISHALI
CHAUHAN
Signing Date: 23.01.2026
16:35:21

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