

CR-2767-2024 (O&M)

2025-PHHC-120526



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

CR-2767-2024 (O&M)

Date of decision : 04.09.2025

Nirmala Mittal @ Nirmala Devi

..... Petitioner

Versus

Ravinder Singh & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashish Gupta, Advocate
for the petitioner.

Mr. Manish Kumar Singla, Advocate with
Ms. Bhoomika, Advocate
for respondents No.1 & 2.

PANKAJ JAIN, J. (ORAL)

1 Challenge is to order dated 15.02.2024 passed by the Additional Civil Judge (Senior Division), Jaitu, whereby application filed under Order I, Rule 10 CPC read with Section 151 CPC at the behest of the plaintiffs has been allowed impleading respondents No.4 & 5, as defendants in the suit. For convenience parties hereinafter are referred to by their original position in the suit i.e. the petitioner as defendant No.1 and respondents No.1 & 2 as plaintiffs.

2 The plaintiffs filed suit seeking decree of specific performance, claiming agreement to sell executed in their favor by the present petitioner on 24.01.2018. Defendant No.1 filed written statement wherein she pleaded



that blank papers were signed by her sons i.e. the newly added defendants and that the shop in question has fallen to the share of one of the sons namely Deepak Mittal in family settlement in February 2017.

3 Plaintiffs moved application under Order I Rule 10 CPC read with Section 151 CPC seeking impleadment of Deepak Mittal and Manish Mittal as defendants No.3 & 4. The same stands allowed by impugned order.

4 Counsel for defendant No.1 has assailed the order claiming that there being no privity of contract with the newly added defendants, they ought not to have been impleaded as party to the suit for specific performance.

5 *Per contra* counsel for the plaintiffs submits that once defendant No.1 has raised specific plea with respect to role of her son and that the shop in question has fallen to the share of one of her sons in a family settlement dated February 2017, the newly added defendants are proper parties for proper adjudication of issue in hand.

6 I have heard learned counsel for the parties and have carefully gone through records of the case.

7 In order to appreciate the plea raised by counsel for the parties, it will be apt to refer to provision contained under Order I Rule 10 CPC which reads as under:-

“ 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.”

8 The aforesaid provision has been interpreted by Five Judges Bench in *U.P. Awas Evam Vikas Parishad Versus Gyan Devi (dead) by L.Rs. 1995 AIR (Supreme Court) 724* holding 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.

xxx xxx xxx”

9 There cannot be any dispute with the plea raised by counsel for defendant No.1 that in the absence of there being any privity of contract with the newly added dependents, they cannot be held to be necessary parties. However, keeping in view the defence pleaded by defendant No.1, this Court finds that the Trial Court rightly held that in the absence of newly added defendants, the issue cannot be properly adjudicated and thus, they being proper parties have been rightly impleaded in the suit.

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

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11 Pending miscellaneous application, if any, also stands disposed off.

04.09.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No