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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 9th October, 2025

+ CS(OS) 230/2022, I.A. 6420/2022, I.A. 14690/2022, I.A. 19189/2022,
I.A. 35299/2024

SMT NEETU SURI

.....Plaintiff

Through: Mr. Puneet Pal Singh, Ms. Tanupreet
Kaur, Mr. Shivam Sachdeva and Ms.
Medha Navami, Advocates.

versus

SH RAJESH MALIK & ANR.

.....Defendants

Through: Mr. Lalit Gupta, Mr. Priyansh Jain,
Mr. Anmol Ghai and Ms. Ishita
Nautiyal, Advocates for D-1 & 3
along with D-1 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (ORAL)

I.A. 14260/2022 (u/O-I R-10 CPC) in CS(OS) 230/2022

1. This application has been filed on behalf of the defendants no. 4 and 5 under Order 1 Rule 10 of the Code of Civil Procedure, 1908 ('CPC') seeking deletion from the array of parties.

2. Brief facts necessary for deciding the present application are set out hereinafter:

2.1. Plaintiff is the daughter of Late Sh. Ved Prakash Malik and Late Smt. Savitri Malik. Defendants no. 1 and 2 are the brother and sister, respectively, of the plaintiff. Defendant no. 3 is the wife of the defendant no. 1.



2.2. Smt. Savitri Malik expired on 3rd May, 2011. Upon the demise of late Smt. Savitri Devi, her entire estate was transferred in the name of Sh. Ved Prakash Malik.

2.3. Sh. Ved Prakash Malik expired intestate on 14th June, 2016. Upon demise of the parents, the plaintiff claims rights in the movable and immovable properties of Late Sh. Ved Prakash Malik.

2.4. Late Sh. Ved Prakash Malik owned various movable and immovable properties, including shares in several private limited companies. Late Sh. Ved Prakash Malik was the majority shareholder in M/s Vee Pee and Associates Private Limited and M/s Goodluck Manufacturing Company Private Limited.

2.5. It is alleged in the plaint that the defendants no.1 and 2 have acted in collusion to transfer the entire shareholding of the father, Late Sh. Ved Prakash Malik, in M/s Vee Pee and Associates Private Limited in favour of defendants no. 4 and 5. The defendants no.1 and 2 have also transferred the entire shareholding of the father, Late Sh. Ved Prakash Malik, in M/s Goodluck Manufacturing Company Private Limited in favour of defendant no.1 and has inducted defendant no.3 as a Director in the company.

2.6. Being aggrieved by the aforesaid, the plaintiff filed the present suit seeking the relief of partition, rendition of accounts, declaration and permanent injunction.

3. The present application was filed on behalf of the defendants no. 4 and 5 on 1st September, 2022. It is stated in the application that the defendants no. 4 and 5 are not family members and do not have any role in the family dispute of the plaintiff and the defendants no.1, 2 and 3. The father of the plaintiff, during his lifetime, transferred the shares of M/s Vee



Pee and Associates Private Limited in favour of the defendants no. 4 and 5.

4. Reply has been filed to the said application by the plaintiff opposing deletion of the aforesaid defendants.

5. Counsel for the plaintiff submits that the plaintiff has made specific averments against the aforesaid defendants in the plaint and, in fact, has sought a specific relief being prayer clause (v).

6. To be noted, the written statement(s) filed on behalf of the defendants no.4 and 5 are not on record as the same was filed in a belated manner.

7. I have heard the counsel for the parties and examined the record.

8. In **Vidur Impex and Traders Pvt. Ltd. & Ors. v. Tosh Apartments Pvt. Ltd. & Ors.**, (2012) 8 SCC 384, the Supreme Court has laid down the principles to be followed while deciding an application filed under Order 1 Rule 10(2) of the CPC. The relevant paragraph is set out below:

“36. Though there is apparent conflict in the observations made in some of the aforementioned judgments, the broad principles which should govern disposal of an application for impleadment are:

1. The Court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as Plaintiff or Defendant or whose presence before the Court is necessary for effective and complete adjudication of the issues involved in the suit.

2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the Court.

3. A proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.



4. If a person is not found to be a proper or necessary party, the Court does not have the jurisdiction to order his impleadment against the wishes of the Plaintiff.”

9. In **Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre and Hotels Pvt. Ltd. & Ors.**, (2010) 7 SCC 417, the Supreme Court has observed that the general rule in regard to impleadment of parties is that the plaintiff in a suit, being *dominus litis*, may choose the persons against whom he wishes to litigate.

10. It is a settled principle of law that while deciding an application for deletion under Order I Rule 10(2), CPC, the Court has to examine the averments made in the plaint.

11. With the aforesaid background, I proceed to examine the averments made in the plaint with regard to defendants no. 4 and 5, which are set out below:

“45. That the plaintiff has now got to learn that Defendant No. 1 by forging and fabricating records transferred the entire shareholding of the father of the plaintiff in M/s Vee Pee and Associates Private Limited (now known as ORMS & Associates LLP) and M/s Goodluck Manufacturing Company Private Limited. **That Defendants No. 1 & 2 have allegedly transferred the entire shareholding of Mis Vee Pee and Associates Private Limited in favour of defendants No. 4 & 5. It is submitted that the said transfer of shareholding is by forging and fabricating record and documents and as such is vitiated and void ab initio.**

46. **That the alleged transfer of the entire shareholding of M/s Vee Pee and Associates Private Limited in favour of defendants no. 4 and 5 has been done at gross undervaluation. It is submitted that defendant no. 1 and 2 have acted in a malafide manner thereby causing wrongful loss to the plaintiff and wrongful gain to themselves. It is submitted that the said transfer is by perpetuating fraud on the plaintiff and accordingly is void ab initio.**”

[Emphasis supplied]



12. It may also be relevant to refer to the prayer clause (v) of the plaint, which is set out below:

“(v) pass a decree of declaration, thereby declaring the transfer of shares and the assets of the companies in which the father of the plaintiff was the majority shareholder as null and void; alternatively, if the court comes to a conclusion that the transaction cannot be reversed for any reason, then applying the principle of owelty, the 1/3rd share of the Plaintiff be determined at the market value on the date of the decree or on the date of transfer, whichever is higher and the same be adjusted against the share of defendants 1 and 2 out of the remaining assets;”

13. From a reading of the aforesaid paragraphs, it emerges that the plaintiff has questioned the legality of transfer of shares of M/s Vee Pee and Associates Private Limited in favour of defendants no. 4 and 5. Since the written statements filed on behalf of the defendants no.4 and 5 are not on record, the aforesaid averments remain unrebutted. Whether or not said averments are true would be a matter of trial and the plaintiff would have to prove the same in the trial.

14. Following the principles laid down in ***Vidur Impex*** (supra), in my view, the plaintiff has made specific averments in the plaint against the defendants no.4 and 5 which are sufficient in nature for the aforesaid defendants to be necessary and proper parties for the adjudication of the suit. Therefore, the defendants no.4 and 5 cannot be deleted from array of parties by invoking provisions of Order I Rule 10 of the CPC at this stage.

15. In view thereof, I do not find any merit in the present application and the same is dismissed accordingly.

I.A. 16048/2025 (u/O-I R-10 CPC) in CS(OS) 230/2022

16. A request for adjournment is made on behalf of the applicant, Mr.



2025:DHC:9088



Gaurav Chaudhary.

17. List on 19th January, 2026.

18. It is made clear that no further adjournment shall be given to the applicant on the next date of hearing.

CS(OS) 230/2022

19. List on 19th January, 2026.

OCTOBER 9, 2025

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AMIT BANSAL, J