

(2003) 08 DEL CK 0003

In the Delhi High Court

Case No : IA 9352 of 2001 in S. No. 1124 of 1995

Dr. S.C. Shukla and Others

APPELLANT

Vs

DDA and Another

RESPONDENT

Date of Decision : 14-08-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2004) 1 AD 119 : (2003) 107 DLT 552 : (2003) 71 DRJ 12

Hon'ble Judges : H.R. Malhotra, J

Bench : Single Bench

Advocate : Y.P. Narula and Diviya Kapur, for the Appellant; Arvind Sharma, for R-1 and Anil Kher and Rakesh for R-2, for the Respondent

Final Decision : Dismissed

Judgement

H.R. Malhotra, J.

IA 9352/2001 in S.No. 1124/1995

1. This is an application made under order 1 Rule 10 CPC on behalf of one Sh.S.S.Gill and Sh.Vinod Kumar who desire to be imp led as plaintiffs in the suit in addition to other plaintiffs numbering 17 already on record besides Welfare Association of Ashok Vihar, Phase-IV, SFS Flats, through its secretary.

2. I may state that these applicants seek impleadment primarily on the ground that ends of justice would be met by their impleadment. What else is stated by them in this application is that even otherwise they are entitled to be imp led as they are residents of the area and are concerned with the illegal construction in their neighborhood.

3. This is a suit for permanent injunction filed by the Ashok Vihar, Phase-IV, SFS Flats Welfare Association through its secretary and other 16 members of the society against the DDA seeking a decree for permanent injunction restraining the defendants from using the land measuring 4000 sq. mtRs. for any other

purposes except children park as shown in the plan. The suit has been instituted by Ashok Vihar, Phase-IV, SFS Flats Welfare Association through its secretary. The object of formation of this society is to look after the welfare of the residents of the colony. Rest of the 16 plaintiffs perhaps are the residents of SFS Flats situated at Ashok Vihar, Phase IV. The two applicants whose application under Order 1 Rule 10 CPC is before this Court seek to be added as the co-plaintiffs on the ground that ends of justice would be met by their impleadment. This Court fails to understand as to how ends of justice would be met in joining them as a party particularly when there are already 16 other plaintiffs besides their welfare society to look after the interest of the residents of the locality.

4. Reading of the application and the reply filed thereto makes me to say that the application is nothing but gross abuse of process of law. This Court fails to understand as to in what manner joining of the applicants as plaintiffs is essential, more particularly when suit has already been filed by the members of the welfare society through its secretary and 16 other members of the society. Although this application is made under Order 1 Rule 10 CPC but reading of these provisions clearly show that the application made by the applicants is misconceived and misconstrued as it is really not necessary to add the names of these two applicants as the plaintiffs for the determination of the real matter in dispute.

5. Even otherwise reading of the reply filed by the defendants reveals that one or the other residents of the locality had been filing writs one after another on one or the other frivolous grounds which writs met dismissal. Even the SLP's met the same fate. Yet another unsuccessful attempt is being made now by these applicants to be imp leaded as party without being proper or necessary party to the instant suit. Learned counsel for the defendant has placed reliance on a authority which is apt to the proposition being dealt with by this Court. This is an authority Narayan Chandra Garai and Others Vs. Matri Bhandar Pvt. Ltd. and Another, , where while finding support from an another authority of Apex Court Deputy Commr., Hardoi, in charge Court of Wards, Bharawan Estate Vs. Rama Krishna Narain and Others, , the Court observed as under:-

"A person is not to be added as a defendant merely because he or she would be incidentally affected by the judgment. The main consideration is whether or not the presence or such a person is necessary to enable the Court to effectually and completely adjudicate upon and settle the questions involved in the suit. If the question at issue between the parties can be worked out without anyone else being brought in the stranger should not be added as a party."

6. Keeping in view the authority referred to above and also in the light of the discussion made hereinbefore, I have no hesitation in saying that the applicants are neither proper party nor necessary party to the present suit. Merely because they are the residents of Ashok Vihar, right does not accrue in their favor to be imp leaded as a party. If such like pleas are allowed to be accepted then there will be no end to judicial proceedings.

8. Since this Court feels that this application is frivolous in nature, Therefore, while dismissing this application, the applicants are burdened with cost of Rs. 3, 000/- to be paid by them jointly/severally. Ordered as such.