

(2026) 07 DEL CK 0241

In the Delhi High Court, Principal Bench, New Delhi

Case No : CS(OS) 234/2020

Nawabuddin

APPELLANT

Vs

Salahuddin & Anr.

RESPONDENT

Date of Decision : 06-07-2026

Acts Referred:

Delhi High Court (Original Side) Rules, 2018-Chapter III Rule 5
CPC — Order I Rule 10, I Rule 10 (2)

Citation : (2026) 07 DEL CK 0241

Hon'ble Judges : Sachin Datta, J

Bench : Single Bench

Advocate : Mr. M.S. Khan, Mr. Akbar Kaleem, Ms. Shaziya, Mr. Abhijit Mishra, Ms. Payal Bahl, Mr. Himanshu Tomar, Mr. Vikhyat Gupta, Mr. Prashant Jaiswal, Mr. Ram Parvesh Kumar

Final Decision : Dismissed

Judgement

SACHIN DATTA, J. (Oral)

O.A. 161/2026 (seeking setting aside of impugned order dated 21.05.2026

passed in IA No.37779/2024)

1. The present appeal has been filed by one Ms. Sheeba under the provision of Chapter III Rule 5 of the Delhi High Court (Original Side) Rules, 2018, assailing an order dated 21.05.2026 passed by the learned Judicial Registrar in I.A. No. 37779 of 2024.

2. By way of the said order, the application of the appellant under Order I Rule 10, CPC for impleadment in the present suit [CS(OS) 234/2020] has been dismissed.

3. The primary contentions raised by the appellant are :

(i) that the impugned order is non-speaking;

(ii) that the prayer clause in CS(OS) 234/2020 has not been duly considered in the impugned order;

(iii) that the appellant's claim of being in possession of the suit property has not been appreciated.

4. The impugned order reads as under:

[An exhibit is reproduced here in the original judgment.]

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5. It is evident from the perusal of the impugned order that the learned Registrar duly noted the contention of the appellant as regards her alleged possession of the suit property and that the appellant has also filed a civil suit bearing no.822/2025, seeking declaration and injunction in respect thereof.

6. The said order further notes as under:

(i) that the appellant is admittedly not a legal heir of the original owner of the suit property;

(ii) that the present suit is one for partition inter se the legal heirs of the original owners;

(iii) that the presence of the appellant is not necessary for adjudication of the relief of partition amongst the stakeholders; and

(iv) that the appellant's independent claims are the subject matter of the civil suit bearing no.822/2025.

7. It is after noting the aforesaid facts, that the learned Registrar deemed it fit not to implead the appellant (applicant before the learned Registrar) .

8. I find no infirmity in the view taken by the learned Registrar. In view of the factual position taken note of by the learned Registrar, it cannot be held that the impugned order is unreasoned. Further, it is rightly noted that the relief sought in the present suit pertains exclusively to partition amongst the legal heirs and impleadment of a rank outsider claiming independent rights is neither warranted nor necessary.

9. A Coordinate Bench of this Court, in **Nazra Khatoon v. Mohd. Zafar & Ors.:** 2025 DHC 10008, in a similar conspectus, held as under:

"4. A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. Merely the fact that a person is likely to secure a right/interest in the suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit. Two tests are

to be satisfied for determining the question as to who is the necessary party and these tests are – (a) there must a right to some relief against such party in respect of the controversies involved in the proceedings and (b) no effective decree can be passed in the absence of such party. Proper party is one whose presence is necessary for effective and complete adjudication of all the questions involved in the suit.

5. In the case of *S.N. Arora vs Brokers & Brokers Pvt. Ltd.*, FAO 217/08 decided on 13.08.2010 by a Division Bench of this Court, after detailed discussion of various judicial pronouncements on this issue, it was held that a person can be impleaded in a suit only if he/she has a direct interest, in contradistinction to a commercial interest in the pending lis. It was further held that where impleadment of a stranger under Order I Rule 10 CPC would enlarge the scope of the litigation, such person should not be impleaded.

6. In the case of *J.J. Lal Pvt. Ltd. vs M.R. Murali*, AIR 2002 SC 1061, the Supreme Court held that in a simple suit for eviction between the landlord and the tenant, stranger claiming title over the suit property cannot be allowed to be impleaded because that would change the complexion of the suit and raise controversies beyond the scope of the litigation, so such stranger shall be at liberty to establish his claim and title in an independent proceedings before a competent forum.

7. In the case of ***Kasturi vs Iyyamperumal***, (2005) 6 SCC 733, the Hon'ble Supreme Court observed thus:

8. In the case of ***Mumbai International Airport Pvt. Ltd. vs Regency Convention Centre and Hotels Pvt. Ltd.***, (2010) 7 SCC 417, the Hon'ble Supreme Court held that Order I Rule 10 (2) CPC is not about right of a stranger to be impleaded, but about the judicial discretion of the Court to strike out or add parties and the Hon'ble Supreme Court laid down certain illustrations regarding exercise of discretion under the said provision thus:

[An exhibit is reproduced here in the original judgment.]

9. ***In the present case, the subject suit is a suit for partition, in which the petitioner/plaintiff and the defendants of the suit claim share in the subject property left behind by their predecessor-in-interest. It cannot be said that in the absence of Toheed, the suit cannot be effectively decided. On the contrary, if Toheed is made a party to the suit, it would widen the scope of the suit from a simple partition suit to a title suit and as mentioned above, where addition of a party would lead to widening the scope of the suit, the impleadment has to be denied.***

10. During the course of hearing, it also transpires that in the civil suit filed by the appellant (bearing no.822/2025), interim injunction was initially granted but subsequently vacated upon consideration of the relevant facts and circumstances.

11. Needless to say, it is open to the appellant to pursue her independent civil suit, however, the same need not impinge upon the present suit, which is confined to the *inter se* disputes between the legal heirs of the original owners of the property.

12. In the circumstances, no merit is found in the present appeal and the same is accordingly dismissed.