

**Ram Saroop Vs. Dhanni Devi and Others**

**Ram Saroop Vs. Dhanni Devi and Others**

**SooperKanoon Citation :** [sooperkanoon.com/29191](http://sooperkanoon.com/29191)

**Court :** Delhi

**Decided On :** Jan-07-2015

**Judge :** Jayant Nath

**Appellant :** Ram Saroop

**Respondent :** Dhanni Devi and Others

**Judgement :**

\$~A-25 \* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision 07.01.2015 + CS(OS) 2701/2014 RAM SAROOP Through ..... Plaintiff Mr.Sohit Chaudhary, Advs. versus DHANNI DEVI AND OTHERS ..... Defendant Through Mr.Deepak Jain, Adv. for D-1 to D-3 Mr.B.N.Gupta, Adv. for D-4 CORAM: HON'BLE MR. JUSTICE JAYANT NATH JAYANT NATH, J.

(ORAL) IA No.17125/2014 (For amendment of plaint and impleadment of D-4) 1. The plaintiff has filed the present suit seeking possession, declaration, damages and mesne profits and other reliefs pertaining to property bearing No.WZ-4, built on plot No.10 admeasuring 45 sq.yds out of 289.5 sq.yds. out of Khasra No.232 and 233, Khewat No.137/413, situated in the approved colony known as Ashoka Park Extn., Punjabi Bagh, New Delhi. Defendant No.1 is the mother of the plaintiff and defendant No.3 is the brother. Defendant No.2 is the wife of defendant No.3.

2. As per the plaint the plaintiff and defendant No.3 are the sons of late Shri Bishna Ram. The said Shri Bishna Ram bought the suit property as above

measuring 289.5 sq.yds. Shri Bishna Ram died on 11.2.1989 leaving behind the plaintiff, defendant No.3 and defendant No.1 his widow as the only legal heir. Defendant No.1 had a separate property measuring 200 sq.yds situated at Anand Parbat which was registered in her name. Hence, it is averred that the family owed two properties on the death of late Shri Bishna Ram one measuring 289.5 sq.yds which is the suit property and another measuring 200 sq.yds at Anand Parbat. It is further averred that an amicable settlement was entered into whereby the property measuring 200 sq.yds was transferred to the plaintiff and to equalise the shares, 45 sq.yds from the suit property which has the total measurement of 289.5 sq.yds was transferred to the plaintiff by GPA, Agreement to Sell, Affidavit, Will and possession letter etc.

3. It is further averred that the plaintiff also executed a relinquishment deed by which both the brothers relinquished their share in favour of defendant No.1 for the suit property. Thereafter defendant No.1 has executed stated documents in respect of the 45 sq.yds of the suit property. In 2012, the plaintiff avers that he has learnt that under the influence of defendants No.2 and 3, defendant No.1 has executed a Gift Deed dated 4.4.2012 in respect of the said suit property in favour of defendant No.2. Further, defendants have demolished the entire construction and have entered into some form of agreement with property dealers. Hence, the present suit was filed seeking possession of the 45 sq.yds.from the said property in Ashoka Park, Extension, Punjabi Bagh, New Delhi with other connected reliefs.

4. It is the case of the plaintiff that while the suit was pending and interim orders have been passed by the District Court, defendant No.2 has sold the First Floor of the suit property on 20.8.2014 to the proposed defendant No.4 for a consideration of Rs.61,92,000/- vide Registered Sale Deed dated 31.7.2014. The said Sale Deed it is urged has been entered into subsequent to filing of the suit and in violation of interim orders passed by the District Judge.

5. Learned counsel appearing for defendants No.1 to 3 submits that he has no submissions to make regarding this particular application.

6. Learned counsel appearing for proposed defendant No.4 has filed his reply. He opposes the application on the ground that he is neither a necessary nor a proper

party. He, however, in his reply admits that he is the absolute owner of the first floor of the suit property and states that as per collaboration agreement entered into with Defendant No.2 he has constructed the entire property and was given the said first floor. Learned counsel appearing for defendants No.1 to 3 submits that he does not have to make any submissions on the present application.

7. By the present application the plaintiff seeks to implead defendant No.4 as a party and also seeks to add paragraphs making consequential averments against defendant No.4 and also seeking consequential relief.

8. We may also look at Order I Rule 10 CPC. Order I Rule 10(2) CPC reads as follows:

(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.

9. Hence, the Court may at any stage strike out the name of any party who has been improperly joined or such person may be joined whose presence before the Court is necessary in order to enable the Court to fully or completely adjudicate upon and settle the questions.

10. In *Ramesh Hiranand Kundanmal vs. Municipal Corporation of Bombay*; (1992)2SCC524 the Supreme Court held as follows:

The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and

commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer i.e., he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights.

11. In my opinion, the presence of defendant No.4 will be necessary and proper. He has a direct interest in the property for which relief is sought by the plaintiff. His presence is necessary to fully adjudicate all disputes arising between the parties. In his absence, the issue of possession and other relief as sought for by the plaintiff cannot be fully adjudicated upon.

12. Coming to the amendments sought in the plaint, the suit is at a preliminary stage. The amendments which are sought by the plaintiff are necessary for the purpose of determining the real questions in controversy between the parties. It is in the interest of justice that the plaintiff is permitted to carry out the amendment as sought for in the present application.

13. Accordingly, the present application is allowed.

14. Proposed defendant No.4 is impleaded as defendant No.4. The amendments to the plaint as sought for in the application are also permitted. JAYANT NATH, J  
JANUARY07 2015 n

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**