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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of decision: 30.11.2023*

+ CM(M) 159/2020

GUNEET SINGH SETHI

..... Petitioner

Through: Mr. Varun Mehlawat, Advocate

versus

KCC BUILDCON PVT LTD

..... Respondent

Through: Mr. Parkash Singh, Advocate and Mr. Pankaj Singh, (Legal Manager)

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**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

### **JUDGMENT**

#### **MANMEET PRITAM SINGH ARORA, J (ORAL):**

1. This petition filed under Article 227 of Constitution of India impugns the order dated 26.11.2019 passed by the ADJ-04, North West District, Rohini Courts, Delhi ('Trial Court') in civil suit bearing CS No. 578853/2016, titled as '**Guneet Singh Sethi v. ACC Buildcom Pvt. Ltd.**', whereby the Petitioner's application under Order I Rule 10 read with Order VI Rule 17 of Code of Civil Procedure, 1908 ('CPC'), seeking impleadment of his wife, Mrs. Gurleen Kaur, as co-plaintiff and to carry out consequential amendments in the plaint, has been dismissed.

1.1. The Petitioner is the plaintiff and the Respondent is the defendant. The suit has been filed by the Petitioner for recovery of sum of Rs. 10,84,956/- for the work said to have been executed by him at the request of



the Respondent.

2. The Petitioner in his plaint as stated that a work order was executed in his favour on 11.02.2014 and construction work was executed in furtherance thereof.

3. The Respondent filed its written statement in the suit stating that there is no privity of contract between the parties and no work order was issued by the defendant in favour of the plaintiff.

4. The learned counsel for the Petitioner states that since in the written statement, the Respondent has denied the privity of contract between the parties, the plaintiff seeks to place on record the facts pertaining to the work order dated 17.05.2013 and 08.06.2013, which were initially issued in favour of his wife Mrs. Guvleen Kaur, who is the proprietor of firm in the name and style of M/s Oscar Safety Solutions. He states that the said documents form the basis of the work order dated 11.02.2014 pleaded in the plaint. He states that initially on 16.05.2014 and 08.02.2014 quotations were issued by M/s Oscar Safety Solutions upon the defendant and the same let do the issuance of the work order dated 11.02.2014 in favour of the plaintiff.

4.1. He states that the said facts are sought to be placed on record to establish the privity of contract between the plaintiff and the defendant.

4.2. He states that the Petitioner does not seek any claim for or on behalf of Mrs. Guvleen Kaur and she is sought to be brought on record to prove the issuance of the documents dated 17.05.2013, 08.06.2013 and 08.02.2014.

5. In reply, learned counsel for the defendant states that with respect to the work order dated 17.05.2013 and 08.06.2013 issued in favour of M/s Oscar Safety Solutions, the payment has already been made vide cheque no. 074134 dated 29.10.2013 which was encashed on 01.11.2013/11.11.2013.



He states therefore, no cause of action survives in pursuance to the said documents. He states that the Respondent herein has no privity of contract with the Petitioner and denies issuance of work order dated 11.02.2014.

6. This Court has considered the submissions of the counsel for the parties, perused the record and more specifically the proposed amendments set out in the application dated 03.08.2018.

7. The Petitioner admits that no replication has been filed in the suit. In the opinion of this Court, the facts proposed to be brought on record by way of the amendment application can be brought on record by the Petitioner by way of his replication.

8. This Court is further of the opinion that since admittedly, Mrs. Guvleen Kaur or her proprietorship firm i.e., M/s Oscar Safety Solutions, has not executed the work order dated 11.02.2014 and is not claiming any amounts where under, which is the subject matter of the suit, she is not a necessary party to the suit proceedings. Since Mrs. Guvleen Kaur is not a necessary party she cannot maintain this suit as a co-plaintiff.

8.1. This will however, not preclude the Petitioner from summoning Mrs. Guvleen Kaur as a witness to prove the documents, which are sought to be placed on record along with the replication.

9. In the opinion of this Court, the impugned order dated 26.11.2019 of the Trial Court does not suffer from any infirmity.

10. Learned counsel for the Petitioner states that he will file his replication within a period of two (2) weeks along with the documents relied upon. It is ordered accordingly. Similarly, the Respondent will be at liberty to file additional documents within a period of three (3) weeks thereafter.

11. Accordingly, with the aforesaid observations, the present petition is



disposed of. It is needless to state that all the rights and contentions of the Respondent shall remain open and the Respondent will be at liberty to raise all the said pleas at trial.

12. Pending applications stand disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**NOVEMBER 30, 2023/hp/aa**

[Click here to check corrigendum, if any](#)