



2024:DHC:9400



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

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Reserved on: 22nd August, 2024

Pronounced on: 3rd December, 2024

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CS (COMM) 940/2018

RELIGARE FINVEST LIMITED

Registered Office at 2nd Floor,
Rajlok Building, 24, Nehru Place,
New Delhi-110019

.....Plaintiff

Through: Mr. Ashish Dholakia & Mr. Jana
Kalayan Das, Sr. Advocates with Mr.
Sandeep Das & Ms. Sanjana Jain,
Advocates.

Versus

1. **LAKSHMI VILAS BANK LIMITED**

Registered Office at M-47,
Outer Circle, Connaught Place,
Janpath, New Delhi-110001

.....Defendant No. 1

2. **RHC HOLDING PRIVATE LIMITED**

Registered Office at G-16,
Marina Arcade, Connaught Circus,
New Delhi-110001

.....Defendant No. 2

3. **RANCHEM PRIVATE LIMITED**

Registered Office at G-16,
Marina Arcade, Connaught Circus,
New Delhi-110001

.....Defendant No. 3

4. **MALVINDER MOHAN SINGH**

Vistas – 26, Maulsari Avenue,
Westend, Green Farm, Rajokri,
New Delhi-110038

.....Defendant No. 4



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5. **SHIVINDER MOHAN SINGH**

1, Southend Lane,
New Delhi-110001

.....Defendant No. 5

Through: Mr. Jayant Bhushan, Sr. Advocate
with Ms. Sushmita Gandhi, Ms.
Malak Bhatt, Ms. Vatsala Pant & Ms.
Samridhi, Advocates for D-1.
Mr. Madhav Khosla, Advocate in I.A.
12197/2019.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J

I.A. 12112/2018

1. The present Application under Order VII Rule 11 read with Order I Rule 3 read with Proviso to Order I Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC, 1908"*) has been filed on behalf of the Defendant No. 1 seeking rejection of the Suit of the Plaintiff on account of non-joinder of necessary parties or in the alternative to direct the Plaintiff to join the RHC Holding Private Limited and Ranchem Private Limited as Defendant Nos. 2 and 3 to the present Suit.

Briefly stated, original Suit dated 29.05.2018 was filed on behalf of the Plaintiff seeking *Declaration and Recovery of Rs. 791,44,77,051/- along with interest from Defendant No. 1, Lakshmi Vilas Bank Limited.*

2. Subsequently, the present Application under Order VII Rule 11 of CPC, 1908, got filed on behalf of the Defendant No. 1 claiming that RHC Holding Private Limited and Ranchem Private Limited, be impleaded as



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Defendant Nos. 2 and 3 or else the Suit of the Plaintiff be dismissed for non-joinder of necessary parties.

3. While this Application under Order VII Rule 11 of CPC, 1908 was pending, the Plaintiff filed an *Application bearing I.A. No. 7955/2019 under Order VI Rule 17 of CPC, 1908 read with Order I Rule 10 of CPC, 1908* seeking amendment of the Plaint for impleadment of Defendant Nos. 2 to 5, namely, RHC Holding Private Limited, Ranchem Private Limited, Malvinder Mohan Singh and Shivinder Mohan Singh. This Application was allowed by this Court *vide* Order dated 15.12.2023, whereby the Plaintiff was allowed to amend the Plaint to include Defendant Nos. 2 to 5 as parties to the Suit.

4. The Order dated 15.12.2023, allowing the amendment/impleadment was challenged by Defendant No. 1 in an *SLP bearing No. 3771/2024*, but the Order dated 15.12.2023 allowing Application under Order VI Rule 17 read with Order I Rule 10 of CPC, 1908, was upheld. While dismissing the SLP, it was observed that the Order dated 15.12.2023 shall not be construed as rejection of the Application under Order VII Rule 11 of CPC, 1908 which shall be decided by this Court on its merit.

5. Consequently, the present Application under Order VII Rule 11 of CPC, 1908 has been taken up for consideration.

6. **The Defendant No. 1 in its Application** has stated that the Suit was bad for non-joinder of necessary parties as the Plaintiff has deliberately had not joined RHC Private Limited and Ranchem Private Limited as party to the present Suit.

7. It is claimed that the Defendant No. 1 had sanctioned and disbursed various facilities from time to time to RHC Holding Private Limited and



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Ranchem Private Limited which were secured by various Fixed Deposits created by the Plaintiff, which are the subject matter of the present Suit.

8. The Plaintiff in the Suit has attempted to distance itself from the sanction of loan and creation of securities in favour of the Defendant No. 1. In fact, contrary to the Agreement/Understanding between the Defendant No. 1 and Religare Group Companies, the Plaintiff has completely denied having created any security and made the statements and averments as if RHC Holding Private Limited and Ranchem Private Limited, have no relation with the present Suit.

9. It is submitted that the Plaintiff has always been aware about the loans being sanctioned and disbursed to RHC Holding Private Limited and Ranchem Private Limited as is evident from the documents produced by Defendant No. 1 before this Court. The relationship between the Plaintiff and RHC Holding Private Limited and Ranchem Private Limited (borrower) and the borrowers to this Suit is clearly brought out from the documents filed by the Defendant No. 1, thereby making RHC Holding Private Limited and Ranchem Private Limited the necessary parties to the present Suit.

10. The Defendant No. 1 has further explained that Religare Group of Companies, more specifically RHC Holding Private Limited and Ranchem Private Limited through their common authorised person, namely, Mr. Hemant Dhingra, addressed an E-mail on 10.11.2016 to the Defendant No.1 requesting for a temporary loan of Rs. 375 crores for a period of 19 days i.e., upto 29.11.2016, to both RHC Holding Private Limited and Ranchem Private Limited, Rs. 200 crores and Rs. 175 crores respectively. For this, it was represented to Defendant No. 1 that one of their Group Companies will be creating a Fixed Deposit of 105% of the aggregate loan value i.e., Rs. 400



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crores approximately, along with fully discharged Fixed Deposit Receipt and undated signed cheques for remittance of maturity proceeds for settlement of loan in case the said loan is not repaid by the borrower Companies on due date.

11. The Religare Group Companies forwarded the Board Resolutions dated 27.11.2016 and 08.11.2016 of Ranchem and RHC Holding Private Limited respectively, to the Defendant No. 1 *vide* E-mail dated 11.11.2016.

12. The Defendant No. 1 has claimed that RHC Holding Private Limited and Ranchem Private Limited were at all given point of time, directly or indirectly, controlled and managed by the same Promoter Group. The parties who have taken loans and for recovery of which, the Fixed Deposits were appropriated, are not only proper but in fact, the necessary parties to the present Suit.

13. The prayer is, therefore, made that either the Suit of the Plaintiff be dismissed for non-joinder of necessary parties or in the alternative, RHC Holding Private Limited and Ranchem Private Limited be impleaded as parties to the present Suit as Defendant Nos. 2 and 3, respectively.

14. **The Plaintiff in its detailed Reply** has denied the averments made in the present Application.

15. It is alleged that none of the grounds under Order VII Rule 11 of CPC, 1908 has been satisfied in the present Application. Moreover, the present Application has become infructuous as the Plaintiff has itself sought impleadment of RHC Holding Private Limited and Ranchem Private Limited after the SEBI Order dated 14.03.2018, wherein SEBI in an independent proceeding on the basis of Forensic Audit, found that no security or lien was ever created on the Fixed Deposits.



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16. *In the Written Submissions filed by Defendant No. 1* reliance is placed on *S.J.S Business Enterprises (P) Limited v. State of Bihar & Ors* (2004) 7 SCC 166 to state that suppression of material facts disqualifies the litigant from obtaining any reliefs. Further, reliance is placed on *Sopan Sukhdeo Sable v. Assistant Charity Commissioner* (2004) 3 SCC 137 to state that omission of a single material fact leads to an incomplete cause of action.

17. Reliance is also placed on *Bhagirath Prasad Singh v. Ram Narayan Rai & Anr.* (AIR 2010 Pat. 189) wherein the Ld. High Court held that reading of plaint for purposes of Order VII Rule 11 CPC would be meaningful reading and to assert that suppression of material facts is not permitted in law. Reliance is also placed on *Max Healthcare Institute Limited v. Sahrudya Health Care Private Limited* (2017) SCC OnLine Del 12031 where it was observed that suit is liable to be rejected by way of demurer on the basis of averments in the plaint on an Application under Order VII Rule 11 CPC.

18. Further, reliance is placed on *Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd.* (2010) 7 SCC 417 wherein the Apex Court held that a “necessary party” is a necessary person who ought to have been joined as a party and in whose absence no effective decree can be passed and if a “necessary party” is not impleaded then the Suit is liable to be dismissed.

19. Accordingly, it is reasserted that the Suit is liable to be dismissed for non-impleadment of necessary parties.

20. **Submissions heard and the Written Submissions filed on behalf of the parties perused.**



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21. *Essentially*, the present Application has been filed either for impleadment of RHC Holding Private Limited and the Ranchem Private Limited or for rejection of the Plaint of the Plaintiff on account of non-joinder of necessary parties. However, much water has flown since then, as both RHC Holding Private Limited and Ranchem Private Limited have already been impleaded as Defendant Nos. 2 and 3 respectively along with Defendant Nos. 4 and 5 i.e., Malvinder Mohan Singh and Shivinder Mohan Singh while allowing the Application Order VI Rule 17 read with Order I Rule 10 of CPC, 1908 filed on behalf of the Plaintiff, *vide* Order dated 15.12.2023.

22. The core ground on which the rejection of the Plaint has been sought was non-impleadment of necessary parties. However, this aspect already stands addressed *vide* Order dated 15.12.2023, when the parties stand impleaded.

23. In view of above, there is no merit in the present Application which is hereby dismissed.

CS (COMM) 940/2018 & I.As. 7879/2018, 9352/2018, 12325/2018,13274/2018 & 12197/2019

24. List before the Roster Bench on 06.12.2024, subject to Orders of Hon'ble the Chief Justice.

**NEENA BANSAL KRISHNA
(JUDGE)**

DECEMBER 3, 2024
S.Sharma