

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : CODE OF CIVIL PROCEDURE

Date of Reserve: 29.7.2008

Date of Order: 12.8.2008

CM(M) No. 881/2008 and CM No. 10490/2008

Gaurav Garg and Ors Petitioners
Through: Mr. A.K.Singla, Sr. Advocate
With Mr. V.K.Sharma, Advocate

Versus

Meenu Garg and Ors. ... Respondents

JUSTICE SHIV NARAYAN DHINGRA

ORDER

In a suit for rendition of accounts and recovery, filed by the plaintiff against 08 defendants, defendants no. 7 and 8 made an application under Order 1 Rule 10 CPC that they were not the necessary parties and their names should be struck off from the array of defendants. The plaintiffs consented to this and the Trial Court struck out the names of defendants no. 7 and 8. The present petition has been filed by the other five defendants against this order of the Trial Court. It is submitted by the Counsel for the petitioners/defendants that the relief claimed in the suit by the plaintiff was for rendition of accounts and recovery and defendants no. 7 and 8 were also to render the accounts in respect of the money given to them.

2. It is the suit of the plaintiff wherein he has asked for rendition of accounts. If, the plaintiff does not want defendants no. 7 and 8 to render the accounts

or to continue to be a party to the suit, the other defendants cannot compel him to make defendants no. 7 and 8 as party. It is settled law that plaintiff can withdraw a part of the claim, can give up a part of the claim against any of the defendants and can drop any of the defendants from his suit. The other defendants cannot compel the plaintiff that the defendants initially made in the plaint must be continued throughout the pendency of the suit. I, therefore, find no merits in the petition. The petition is hereby dismissed.

Sd/-

SHIV NARAYAN DHINGRA, J.