



CGHC010084312024

2026:CGHC:31791



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 192 of 2024

Ajay Singh S/o Gulab Chandrakar Aged About 42 Years R/o Village Gorkapar
Tahsil Gunderdehi Dist. Balod, C.G. (Particular Of The Petitioner Is Not
Properly Mentioned In The Cause Title Of The Impugned Order)

... **Petitioner(s)**

versus

1 - Jiladhis (Collector) Balod Dist. Balod C.G.

2 - Karyapalan Abhiyanta Lok Nirman Cg Rajya Sadak Pariyojna Adb Project
Rajnandgaon, Dist. Rajnandgaon, C.G.

3 - Propitor Shri Ji Kripa Project Lpsa Construction (Jv) Anda To Ranchirai
Jamgaon Road Thekedar Mukhyalay Sikolabhatha Durg, C.G.

4 - Jyoti Sahu Sarpanch Gram Panchayat Gorkapar Tahsil Gunderdehi Dist.
Balod, C.G.

5 - Mohit Chandrakar Upsarpanch Gram Panchayat Gorkapar Tahsil
Gunderdehi, Dist. Balod, C.G.

... **Respondent(s)**

For Petitioner(s) : Mr. Aman Tamrakar, Advocate

For Respondents No. 1 & 2 : Mr. Ghanshyam Kashyap, Dy.G.A.

For Respondent No.3 : Ms. Vidhi Matlani, advocate on behalf of
Mr. Sanjay Agrawal, Advocate

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

24/07/2026

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioner against the impugned order dated 17.01.2024 passed by learned Civil Judge, Class-I, Gunderdehi, District – Balod (C.G.) in Civil Suit No. A/8/2021, whereby the application filed by the interveners under Order 1 Rule 10 of CPC has been allowed and the learned trial Court is directed to implead them as defendant No.4 and 5 in the suit filed by the plaintiff.
3. Learned counsel for the petitioner would submit that the petitioner is the plaintiff before the learned trial Court and he is prosecuting a suit for declaration of title and permanent injunction against the defendants No. 1 to 3 with respect to the land Khasra No. 440 and 540 situated at Village – Gorkapar, Tehsil – Gunderdehi, District – Balod. The claim of the plaintiff in the suit is that from the suit land, the water flow was continued in the field of the plaintiff bearing Khasra No. 434/2 and the water flow came from the pond situated at Khasra No. 539, however, the defendants while reconstructing the road, stopped the water flow who was the field of the plaintiff, therefore, he filed the suit for the relief as claimed in the plaint. He would further submit that the plaintiff has filed the suit against the State authorities as well as the defendant No.3 who is the contractor for construction of the road, however, during pendency of the suit, the interveners who are Sarpanch and Panch of the Gram Panchayat, Gorkapar that they are also the necessary party in the suit filed an application under Order 1 Rule 10 of CPC for

impleading themselves to be the party defendants in the suit. He would further submit that the learned trial Court after hearing the parties, directed the plaintiff to implead them as a party defendant No. 4 and 5 in the suit whereas the State Government has been made as a party defendant and Sarpanch and Panch have no right to defend the suit filed by the plaintiff. He would further submit that the plaintiff is the *dominus litis* of the suit and the intervener can not be impleaded as the party defendant in the suit who have no locus or any right against the plaintiff. The State authorities are defending their claim by filing their written statement, issues have been framed and there is no necessity to implead the defendant No. 4 and 5 in the suit, therefore, the impugned order may be set aside and the application filed by the intervener may be allowed.

4. Learned counsel appearing for the respondent No.3 would submit that the respondent No.3 is the Contractor and the learned trial Court on an application being made by the interveners has directed them to implead as a party defendant No. 4 and 5.
5. Learned counsel appearing for the respondent No. 1 and 2/State supported the impugned order and would submit that it is the Panchayat representatives in whose possession the land was there and the Panchayat has to manage the affairs of the village, therefore, the Sarpanch and Panch have been made an application to implead them as a party. So, the State authorities are properly defending their suit filed by the plaintiff, therefore, there is no infirmity in the order and the writ petition is liable to be dismissed.
6. I have heard learned counsel for the parties and perused the document

annexed with the petition.

7. From a perusal of the plaint (Annexure P-2) annexed to the writ petition, it is evident that the plaintiff has instituted the suit claiming an easementary right for the natural flow of water from the Government pond situated at Khasra No. 539 towards his agricultural field. According to the plaintiff, on account of the construction and widening of the road, the defendants have obstructed the natural flow of water, thereby adversely affecting his easementary right, for which the present suit seeking declaration and mandatory injunction has been filed. A perusal of the written statements (Annexure P-3) further reveals that defendant Nos. 1 and 2, namely the State authorities, as well as defendant No. 3, the contractor entrusted with the construction of the road, have entered appearance and are contesting the suit on merits. The issues were framed on 23.02.2023 and the suit has thereafter proceeded to the stage of recording of evidence. From the application (Annexure P-5) filed under Order 1 Rule 10 of the Code of Civil Procedure by the proposed defendants/interveners, it transpires that they seek impleadment solely on the ground that they are the Sarpanch and Panch of Gram Panchayat, Gorkapar, and that the suit property belongs to the Gram Panchayat, rendering them necessary parties to the proceedings. However, the plaint itself discloses that the Collector, District Balod, and the Executive Engineer, PWD, Chhattisgarh State Road Project (ADB), Rajnandgaon, having headquarters at Durg, have already been impleaded as defendant Nos. 1 and 2 and are effectively defending the interests of the State in the suit.

8. In the case of **"Mumbai International Airport (P) Ltd. v. Regency Convention Centre and Hotels (P) Ltd."**, 2010 (7) SCC 417, the Hon'ble Supreme Court has held that :-

13. The general rule in regard to impleadment of parties is that the plaintiff in a suit, being dominus litis, may choose the persons against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief. Consequently, a person who is not a party has no right to be impleaded against the wishes of the plaintiff. But this general rule is subject to the provisions of Order 1 Rule 10(2) of the Code of Civil Procedure ("the Code", for short), which provides for impleadment of proper or necessary parties. The said sub-rule is extracted below:

"10. (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. Further, in the case of **"Sudhamayee Pattnaik and Others V/s Bibhu Prasad Sahoo and Others"**, 2022 LiveLaw (SC) 773, the Hon'ble Supreme Court has held that :-

"5. We have heard learned counsel for the respective parties at length.

At the outset, it is required to be noted that the defendants in the suit filed application under Order 1 Rule 10 CPC and prayed to implead the subsequent purchasers as party defendants. The suit is for declaration, permanent injunction and recovery of possession. As per the settled position of law, the plaintiffs are the domius litis. Unless the court suo motu directs to join any other person not party to the suit for effective decree and/or for proper adjudication as per Order 1 Rule 10 CPC, nobody can be permitted to be

impleaded as defendants against the wish of the plaintiffs. Not impleading any other person as defendants against the wish of the plaintiffs shall be at the risk of the plaintiffs. Therefore, subsequent purchasers could not have been impleaded as party defendants in the application submitted by the original defendants, that too against the wish of the plaintiffs.”

10. It is a settled principle of law that the plaintiff is the *dominus litis* and, therefore, has the prerogative to choose the persons against whom he seeks relief. Ordinarily, the plaintiff cannot be compelled to implead any person as a defendant merely because such person claims to have an interest in the subject matter of the suit. The power under Order 1 Rule 10(2) of the Code of Civil Procedure is to be exercised by the Court only where the proposed party is found to be a necessary or proper party whose presence is indispensable for an effective and complete adjudication of the issues involved. The Hon'ble Supreme Court in ***Mumbai International Airport (P) Ltd.*** (supra) has held that although the doctrine of *dominus litis* is subject to the power of the Court under Order 1 Rule 10(2) CPC, such power can be exercised only when the Court arrives at a conclusion that the presence of the proposed party is necessary or proper for complete adjudication of the dispute. Similarly, in ***Sudhamayee Pattnaik*** (supra), the Hon'ble Supreme Court reiterated that a defendant cannot compel the plaintiff to implead third parties merely at the instance of such parties, unless the Court finds that they are necessary parties for effective adjudication of the controversy.
11. In the present case, the plaintiff has instituted the suit against the State authorities, namely, the Collector and the Executive Engineer, as well as the contractor who executed the road work. The State authorities

have already entered appearance, filed their written statement and are contesting the suit on the merits. The issues have also been framed, and the suit has progressed to the stage of recording of evidence. The proposed defendants seek impleadment solely on the ground that they are the Sarpanch and Panch of the Gram Panchayat and that the land in question belongs to the Gram Panchayat. However, no independent relief has been claimed against them in the plaint, nor has it been demonstrated that in their absence no effective or executable decree can be passed. Their interest, if any, is adequately represented by the State authorities already arrayed as defendants. In such circumstances, the proposed defendants cannot be treated either as necessary parties or as proper parties within the meaning of Order 1 Rule 10 CPC.

12. The learned trial Court, therefore, committed a jurisdictional error in directing the plaintiff to implead them as defendant Nos. 4 and 5, notwithstanding the settled principle that the plaintiff, being the *dominus litis*, cannot ordinarily be compelled to sue persons against whom no relief has been claimed.
13. Consequently, the impugned order dated 17.01.2024 deserves to be and is hereby **set aside**, and the application filed by the interveners under Order 1 Rule 10 CPC is also **rejected**.
14. The writ petition is accordingly **allowed**.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE