

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3016 of 2016

Date of Decision: 20.05.2016

Iqbal Mohammad

... Petitioner(s)

Versus

Chhinder Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Ashish Gupta, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside the order dated 12.1.2016, passed by learned Civil Judge (Junior Division), Moga, whereby application under Order 1 Rule 10 CPC for impleadment of Gram Panchayat, Village Nathuwala Jadid through its Sarpanch Rachhpal Kaur, was accepted.

Learned counsel for the petitioner, while assailing the impugned order, took the plea that it is settled proposition of law that plaintiff is master of his suit especially in a suit for permanent injunction. In the present case, plaintiff had filed suit for permanent injunction, against whom he was

over the suit land. He cannot be compelled to array Gram Panchayat as a party by way of acceptance of application under Order 1 Rule 10 CPC. The Court below has completely ignored this fact while passing the order and the said order is liable to be set aside.

Having considered the submissions made by learned counsel for the petitioner and having gone through the record of the case and impugned order, this Court is of the considered view that the Court below has taken correct view in the matter that Gram Panchayat is a necessary and a proper party to the present litigation because infact relief is being claimed with regard to the property which is for the common use of the villagers and that way Gram Panchayat, being a representative body of the village, has certainly got a right to be impleaded as party. Applicant-Gram Panchayat has come with the plea that streets of the village were laid down in the entire village by spending huge public money and resolution was passed by Gram Panchayat on 24.5.2014 that nobody shall be allowed to remove the bricks from the public street for his private purpose. Despite that, plaintiff had removed the bricks from the street and dug out a ditch in the public street. Even on the basis of complaint filed by the Gram Panchayat, civil administration took action and petitioner was given five days' time to remove the encroachment. Petitioner, instead of removing the encroachment, approached the Court for obtaining stay without impleading Gram Panchayat as a party.

There being no dispute that in a suit for permanent injunction, plaintiff is the mater of the suit, but the Court has also to see all the attending circumstances and in such like circumstances, the suit has been cleverly

drafted to seek relief against Gram Panchayat, but at the same time not impleading Gram Panchayat as a party so as to avoid objection under Section 13 of Punjab Village Common Lands (Regulation) Act, 1961. The Court below has rightly taken a view that Gram Panchayat is a necessary party to be impleaded and the application was accepted.

Consequently, present petition is without any merit and the same is hereby dismissed.

(Shekher Dhawan)
Judge

May 20, 2016
"DK"