

207.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.5629 of 2015 (O&M)

Date of decision:06.01.2016

Rajinder Kumar and others

... Appellants

versus

Subash and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Bikram Chaudhary, Advocate,
for the petitioners.

Mr. Atul Gaur, Advocate,
for Mr. Sumeet Goel, Advocate,
for respondent No.1.

K.Kannan, J. (Oral)

1. Affidavit filed in court on behalf of respondent No.1 is taken on record.

2. The petitioners are third parties who want impleadment to contend that they must be heard in the plaintiff's suit for an injunction. The plaintiff's resisted the application on the ground that the petitioners are brothers and close relatives of defendants whose defence was struck off. If the third parties have objection that the relief of injunction that is sought will affect their own rights of exclusive user as members of Harijan community, it is only appropriate that their objections are taken on board and the case considered on merits.

3. I find no prejudice as possible of being inflicted on the plaintiff by allowing for the defence to be brought through persons interested in the user of the street. Since the third parties-petitioners are claiming some rights as belonging exclusively to them in which the plaintiff cannot have a right of way and since the right canvassed is only for the benefit of community of people, I will make a deviation from the normal rule that the plaintiff who institutes a suit will have a right to choose the persons against whom he seeks the relief. Since the suit property admittedly is not a private property and the extent of public user would require to be determined, I will allow for the petitioners to come on record. The dismissal of the application by the court below is set aside and the revision petition is allowed. The written statement shall be filed by them within 30 days from the date of receipt of copy of this order, failing which, the defence will be taken as struck off and the court will proceed to dispose of the case on the basis of records brought by the plaintiff. If the plaintiff would require any amendment in the plaint consequent upon the third parties being brought on record, he shall be at liberty to do so.

4. The revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

06.01.2016
sanjeev