

In the High Court of Punjab and Haryana at Chandigarh

CR- 5433 of 2017

Date of Decision: 17.8.2017

Pardeep Singh and another

---Petitioners

versus

Jagdish Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Deepak Raghava, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against order dated 29.7.2017 passed by the Additional Civil Judge (Senior Division), Guhla whereby application filed by the petitioners under Order 1 Rule 10 of the Code of Civil Procedure (in short "CPC") for impleading as a party in the civil suit titled "Jagdish Singh and others vs. Gram Panchayat Manjheri and others" has been dismissed.

Counsel for the petitioners would urge that no prejudice shall be caused to the respondents/plaintiffs in case the petitioners are permitted to be impleaded as a party. It is argued that as per allegations raised in para 4 of the plaint, petitioner No. 1 is stated to have constructed his house in khasra No. 44 three/four years ago. In case the petitioners are not permitted to join the proceedings, file the written statement and adduce evidence to controvert the allegations raised in para 4, a serious prejudice shall be

caused to them.

I have heard counsel for the petitioners, perused the paper book particularly various annexures including the order impugned.

Pardeep Singh, petitioner No. 1 is Ex-Sarpanch of Gram Panchayat village Manjheri and in the suit filed by the respondents/plaintiffs, Gram Panchayat Manjheri was sued through its sarpanch and Pardeep Singh had been contesting the case prior to election of new sarpanch of the said Gram Panchayat. The written statement dated 18.2.2015 (Anexure P-5) was filed by the Gram Panchayat through Pardeep Singh, petitioner No.1. Till the litigation on behalf of Gram Panchayat being pursued through petitioner Pardeep Singh, he never filed an application for impleading him as a party in his personal capacity. The proceedings have already culminated in the final stage of hearing arguments.

Perusal of the plaint would reveal that dispute pertains to khasra No. 65 and not khasra No. 44. Plea of the respondents/plaintiffs is that the Gram Panchayat has encroached upon a part of khasra No. 65 by constructing a pucca street (phirni), evidenced by demarcation report dated 29.4.2014. As the dispute pertains to khasra No. 65, any allegations raised by the respondents/plaintiffs with regard to construction on khasra No. 44 would not be the subject matter of adjudication by the trial court. This apart, even if any finding is recorded by the trial court with regard to construction on khasra No. 44, the same would not be binding upon the petitioners as they are not party to the litigation. Examined from any angle, there is no merit in contention of the petitioners that they are proper much less necessary party to be impleaded by the Court in exercise of jurisdiction

under Order 1 Rule 10(2) CPC. As such, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

17.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No