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

CR No.4604 of 2018 (O&M)  
Date of Decision : 13.12.2018.

Balraj

...Petitioner

Versus

Rajbir Singh and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE B.S.WALIA**

Present: Mr. Sachin Luthra, Advocate for the petitioner.

Mr. Vikas Lochab, Advocate for respondent Nos.1 to 4.

Mr. Arvind Kumar Yadav, Advocate for respondent No.5.

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**B.S.WALIA, J.** (Oral)

1. Revision petition has been filed against the dismissal of application filed by the petitioner under Order 1 Rule 10 CPC for being impleaded as a party on the ground that the petitioner is a resident of village Jharoti and resident of the area qua which civil suit has been filed by respondent Nos.1 to 4 against the Gram Panchayat pertaining to Gali No.204/1, 203/3 i.e. public street belonging to the Gram Panchayat and in respect of which plaintiffs/respondent Nos.1 to 4 have made illegal encroachment and have filed a civil suit for restraining their dispossession from said area.

2. The application was dismissed *inter-alia* on the ground that the Gram Panchayat was being represented by the Sarpanch and even if the allegations levelled by the petitioner were to be considered nevertheless Gram Panchayat through Sarpanch could very well look

after the interest of the public at large as well as the suit property and that the petitioner had failed to show any good ground as to why he should be made party in the present case or as to what loss would be caused to him if he was not arrayed as party in the case or if the Gram Panchayat could not pursue the matter in dispute on its own.

3. Learned counsel for the petitioner contended that in fact one Rajbir son of late Dhanna i.e. respondent No.1 had illegally occupied the public road belonging to the Gram Panchayat and for removal of the said encroachment another resident of the village namely Inder son of late Jugti, had filed a case against respondent No.1 under Section 7 of the Punjab Village Common Land Act, 1961, before the DRO's Court, in which the DRO, Sonapat had ordered eviction of respondent No.1 from the land illegally occupied vide order dated 24.10.2012 and that Gram Panchayat, Jharoti had filed an execution application in the aforementioned case in which the DRO, Sonapat vide order No.17/2016 had directed the removal of illegal occupation but the matter was not being proceeded with in accordance with law on account of which respondent No.1 was not being evicted from the encroachment and that in the meantime, respondent No.1 and other respondents had filed a civil suit against the Gram Panchayat for restraining their dispossession from the suit property.

4. I have considered the submission of learned counsel for the parties.

5. Although the petitioner cannot be said to be a necessary party, yet he squarely falls within the definition of term proper party as the area in dispute pertains to Gali in the vicinity of the house of the

petitioner which has allegedly been encroached upon by respondent Nos.1 to 4, thereby affecting his right of access to the said Gali. In the circumstances, the petitioner definitely is an interested person being resident of the Gali area which has allegedly been encroached upon by respondent Nos.1 to 4, despite it being land owned by the Gram Panchayat. Accordingly, the petitioner is entitled to be impleaded as a proper party since he is likely to be affected by the result of the suit.

6. In the light of the position as noted above, impugned order dated 10.05.2018, passed by the learned Addl. Civil Judge (Senior Division), Kharkhoda, is set aside and petitioner is ordered to be impleaded as respondent No.2 in the main suit.

7. Revision petition allowed in the aforementioned terms.

**(B.S.WALIA)**  
**JUDGE**

13.12.2018

rajesh.k.khurana

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No