

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Revision No.7615 of 2017  
Date of Decision: April 03, 2018

Ramesh Kumar

...Petitioner

Versus

Smt.Sunita & another

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Kewal Krishan, Advocate for  
Mr.Anoop Singh, Advocate,  
for the petitioner.

Mr.Neeraj Gupta, Advocate,  
for respondent No.1.

Mr.Ankush Choudhary, Advocate,  
for respondent No.2.

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**AMIT RAWAL, J. (Oral)**

The present revision is directed against the order dated 25.8.2017, whereby the application moved by the petitioner under Order 1 Rule 10 CPC for impleading as defendant No.2 in a suit for declaration with consequential relief of permanent injunction filed by Smt.Sunita-respondent No.1, has been dismissed.

Mr.Kewal Krishan, learned counsel appearing on behalf of the petitioner submitted that respondent No.1-plaintiff instituted the suit on the ground that she is owner in possession of the property shown in red colour by letters ABCD and fully shown in the enclosed site plan on the basis of the registered sale deed bearing Vasika No.22786 dated 17.12.2014. Some proceedings initiated by the Gram Panchayat under Section 24(1) of the

Panchayati Raj Act, 1994 were for demolition of the encroachment, whereby the plaintiff was directed to demolish the encroachment as per the demarcation report dated 16.11.2016. The application was moved by Ramesh Kumar, the present petitioner, therefore, being a resident/proprietor of the village, he is essential and necessary to be impleaded before the Court below.

He further submitted that the Sarpanch of Village Dhankot colluded with the plaintiff and in order to help her did not appear in the Court and, therefore, the Gram Panchayat was proceeded ex-parte. No explanation has come in not contesting the suit once the proceedings under the Panchayat Raj Act were initiated against respondent No.1-plaintiff. It is in that background of the matter, being proprietor of the village, application was moved, but the same has erroneously been rejected.

Mr.Neeraj Gupta, learned counsel for respondent No.1 submitted that an application under Order 9 Rule 7 CPC has been filed which is pending adjudication. The factum of filing of the aforementioned application could not be controverted by the counsel for the petitioner for want of instructions. He submits that he would not be opposing the application for setting-aside the ex-parte proceedings moved by the Gram Panchayat.

In view of the aforementioned fact, by exercising powers under Article 226 of the Constitution of India in order to protect the interest of the villagers, I deem it appropriate to allow the application filed by the Gram Panchayat for setting-aside the ex-parte proceedings. Ordered accordingly. The Gram Panchayat is directed to join the proceedings and contest the suit on merits. Once the interest of the villagers has been protected by the Gram

Panchayat, in my view, the apprehension no longer subsists.

For the reasons stated above, while upholding the order under challenge with the aforementioned directions, revision petition stands disposed of.

**April 03, 2018**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

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|----------------------------------|---------------|
| <b>Whether speaking/reasoned</b> | <b>Yes/No</b> |
| <b>Whether Reportable:</b>       | <b>Yes/No</b> |

