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

CR No.6785 of 2017

Date of Decision: 24.01.2019

Jaswant Singh

Petitioner

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

Ms. Ambika Luthra, Sr. D.A.G. Punjab.

Mr. Akshit Aggarwal, Advocate for
Mr. S.K. Singla, Advocate
for respondents No.3 to 7.

AVNEESH JHINGAN, J (Oral):

The present civil revision petition has been filed by the petitioner being aggrieved of order dated 20.05.2017 passed by the Civil Judge, Junior Division, Talwandi Sabo [for brevity 'the trial Court'] dismissing the application filed under Order VI Rule 17 read with Order I Rule 10 and Section 151 of the Code of Civil Procedure, 1908 [for brevity 'CPC'].

[2] The facts in brief are that the petitioner/plaintiff [hereinafter referred to as 'petitioner'] filed a suit for mandatory injunction directing the respondents No.1 and 2 for removing encroachment over the land of the petitioner, as described in the title

of the suit. On notice, written statement was filed by the State of Punjab. In the said written statement, stand was taken that a Brick paved *Khal* was made by the Punjab State Tubewell Corporation [hereinafter referred to as 'Corporation'] and the same has not been impleaded as a party. Thereafter, an application was moved for impleadment of the Corporation as a party to the suit. The said application was dismissed on the ground that the impleadment has been sought on the ground which was in the knowledge of the petitioner and amendment of pleadings has been sought at the stage of plaintiff's evidence. Aggrieved of the order, the present civil revision petition has been filed.

[3] Learned counsel for the petitioner contends that it was out of inadvertence that Order VI Rule 17 of CPC was pressed into service. Basically, prayer was under Order I Rule 10 of CPC for impleadment of the Corporation. He only presses that in order to decide the real issue, impleadment of the Corporation is necessary.

[4] Learned counsel for the respondents rebutted the contention raised by learned counsel for the petitioner and insisted that the Corporation is not a necessary party. Further, learned State counsel states that the Corporation has now been renamed as Punjab Water Resources Management & Development Corporation.

[5] The contention raised by learned counsel for the petitioner deserves acceptance. Moreso, when the prayer is only restricted under Order I Rule 10 of CPC for impleadment of the Corporation.

[6] For reference, Order I Rule 10 of CPC is quoted below:

10. Suit in name of wrong plaintiff.—(1) *Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.*

(2) **Court may strike out or add parties.**—*The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been jointed, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*

(3) *No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.*

(4) **Where defendant added, plaint to be amended.**—*Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant*

(5) *Subject to the provisions of the Indian Limitation Act, 1877 (XV of 1877), section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.*

[7] From the perusal of Order I Rule 10 of CPC, it is evident that in case the impleadment is necessary for determination of real matter in dispute, the person can be added upon such terms as the Court thinks fit. In the present case, as the brick paved *Khal* has been made by the Corporation, it would be a necessary party for adjudication of dispute in the suit.

[8] Keeping in view the facts and circumstances of the case, the prayer made under Order I Rule 10 of CPC is allowed. The Corporation is ordered to be impleaded as defendant No.8 as the relief sought in the petition is to be defended by the Corporation. As the name of the Corporation has been changed, the petitioner shall move a formal application before the learned trial Court within 15 days from today regarding the same.

[9] The civil revision petition is disposed of.

[AVNEESH JHINGAN]
JUDGE

January 24th, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |