

2024:PHHC:032491

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

SAO-6-2024 (O&M)
Date of decision: 06.03.2024

Nirmala Devi

....Appellant

Versus

Ram Gopal @ Gopal Chand @ Pala @ Gopal Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Manjinder Singh Joshi, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

1. This appeal has been filed by the plaintiff to assail the correctness of the order passed by the First Appellate Court while remanding the case back to the trial court for fresh decision. It has come on record that the dispute in the present case is with regard to the encroachment on a public passage. It has been found by the First Appellate Court that the Gram Panchayat, in which the aforesaid public passage vests, has not been impleaded as a party. The court has found that Gram Panchayat is a necessary party for the decision of the case.

2. Learned counsel representing the appellant submits that the Sarpanch of the Gram Panchayat was examined by the defendants. However, still the suit was decreed in favour of the appellant.

3. The examination of the Sarpanch in evidence cannot be considered as a substitute for the requirement to implead the Gram Panchayat as a party defendant. The Gram Panchayat is body corporate. It is required to be impleaded as a party through its authorized office bearer or Sarpanch. The appellant has filed a suit for declaration and

mandatory injunction directing the defendants to remove their wall and structure. In these circumstances, the impleadment of the Gram Panchayat will facilitate the court to decide the suit in a proper manner.

4. Learned counsel representing the appellant further contends that the defendants have filed an application for impleadment of the Gram Panchayat before the trial court but the same was not decided. This is another error committed by the trial court. Hence, the First Appellate Court has correctly remanded the case back to the trial court.

5. Keeping in view the aforesaid facts, no ground to interfere is made out.

6. Hence, dismissed.

7. All the pending miscellaneous applications, if any, are also disposed of.

06.03.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE