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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 07.02.2024.

Santokh Singh and others

...Petitioners.

Versus

Govt. Elementary School, Bharo Harni and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioners/ plaintiffs have challenged order dated 03.07.2023 (Annexure P-8) passed by learned trial Court, vide which application filed by respondent No.4 under Order 1 Rule 10 CPC for impleading Gram Panchayat as party, has been allowed.

2. The brief facts of the case relevant for the present revision petition are that the petitioners/plaintiffs had filed a suit for possession of land measuring 1 kanal 4 marlas comprised in Khewat No.43/41, Khatoni No.85, Rect No.8, Kulla No.21/2/2 (1-4) situated in revenue estate of village Bharo Harni, District Gurdaspur, alleging that the land in dispute is ownership of the petitioners/ plaintiffs and was adjoining to the land where school is existing but the school management has taken possession of the suit land illegally. The said suit was dismissed by the trial Court vide

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judgment and decree dated 16.08.2018 and the petitioners filed an appeal against the said judgment and decree which was accepted by learned District Judge, Gurdaspur and the matter was remanded back to the learned trial Court with a direction to appoint fresh Local Commissioner, vide the remand order dated 18.07.2022. After remanding of the case respondent No.4 filed an application under Order 1 Rule 10 CPC for impleadment in this suit. The petitioners filed reply to the said application stating that respondent No.4 is not a necessary party and civil suit is pending for the last 8 years and the instant application has been filed just to delay the proceedings. The trial Court vide impugned order dated 03.07.2023, allowed the said application under Order 1 Rule 10 CPC filed by respondent No.4 for impleadment. Hence the present revision petition has been filed by the petitioners before this Court.

4. Learned counsel for the petitioners has contended that the plaintiff is dominus litus and nobody can be permitted to join in the suit against the wish of the plaintiff. The petitioners are owner of the suit land and respondents No.1 to 3 in their reply have admitted the ownership of the petitioners. The Gram Panchayat has nothing to do with the suit land, so the impleadment of respondent No.4 in the present suit is not necessary and its presence is not required for adjudication of the case. He has submitted that the moving of the said application is malafide, and the sole motive is to delay the proceedings before the trial Court. So, the impugned order has caused grave prejudice and manifest injustice to the petitioners.

5. I have heard learned counsel for the petitioners and have gone

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through the relevant record.

6. The perusal of the application filed under Order 1 Rule 10 CPC for impleading Gram Panchayat of village Bharo Harni reveals that it has been alleged therein that the plaintiffs in a clandestine manner have filed the present suit by not impleading Gram Panchayat as defendant in the present suit. Government Elementary School, Bharo Harni has been constructed in the Panchayat land and Gram Panchayat is maintaining the same being common property of the village community. But the plaintiffs, who are in illegal possession over the Panchayat land, by concealing the true facts from the Court, in the absence of village Gram Panchayat are trying to usurp the property in suit, in which the village Primary School is in existence for the last many years. It has also been alleged that the Gram Panchayat from time to time has been spending money i.e. Panchayat funds, amount of grants for the maintenance of village school for the larger interest of the student community i.e. the children of inhabitants of village. It has been further alleged that the Gram Panchayat is duty bound to watch the interest of the village community and to protect the common property for the larger interest of the inhabitants of village. It has been alleged that as such Gram Panchayat is necessary and proper party in the present suit and the property in suit vest in the Village Gram Panchayat for management and control.

7. As per report of the Local Commissioner, who had been appointed by the trial Court, as per orders of learned District Judge, Gurdaspur, the local respectables of the village and Panchayat members stated that in lieu of the land upon which is alleged illegal possession of the

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school, another land was given to the plaintiffs and the same is in possession of plaintiff-Santokh Singh.

8. It has been alleged in the application under Order 1 rule 10 CPC that the Village Government Elementary School, Bharo Harni has been constructed in the Panchayat land and the Gram Panchayat of village is maintaining the same being common property of village community. As such, large interest of the inhabitants of village as well as students is involved. So village Gram Panchayat is a necessary party for proper adjudication of controversy in the present suit. Moreover, no prejudice is likely to be caused to the petitioners if respondents are impleaded as defendants in the present suit.

9. Thus, there being no illegality or infirmity in the impugned order no interference there with is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

10. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

07.02.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No