

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

2025.PHHC.003731



126

CR-90-2025 (O&M)

Date of decision: 13.01.2025

Rani Puri

...Petitioner.

Versus

Subhash Chand and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present : Mr. Gulzar Mohammed, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 04.12.2024 passed by learned trial Court, vide which the application under Order 1 Rule 10 CPC filed by the petitioner/ applicant, was dismissed.

2. The relevant facts for adjudication of the present revision petition are that the plaintiff has filed the civil suit No.1563 of 2020 titled as Subhash Chand Vs. Balwant Rai, for possession of land measuring 15K-0M comprised in khewat No.69, khatauni No.89, khasra No.4//23, 7//3, 4, 6, situated within the revenue estate of village Odhri, with consequential relief of permanent injunction restraining the defendants from cutting and removing the poplar trees standing in the said land.

3. During pendency of the aforesaid suit, the petitioner filed an

application under Order 1 rule 10 CPC for impleading her as defendant No.2 on the ground that the plaintiff filed false suit for possession regarding the land situated at village Odhri, District Yamuna Nagar, in which the plaintiff alleged that the defendant had forcibly occupied the land of the plaintiff, situated at Odhri and also occupied the poplar trees planted by plaintiff in connivance with respondent No.2. It was alleged that the applicant is real owner of the land situated at Beer Tapu comprising in khasra No.42//1, 2, 3, 4, 8, ,9, 43//4, 5, adjoining to the suit land of the plaintiff and in his land situated at Beer Tapu, the applicant has planted poplar trees which were nourished by the petitioner. Plaintiff in connivance with defendants are trying to grab the land as well as poplar trees planted by applicant/ petitioner in his own land which is situated in Beer Tapu under the garb of procuring false demarcation report, obtained from the Tehsildar Jagadhri in connivance with each other. It was alleged that poplar trees which are about 350 in number are still standing at the spot and the plaintiff in connivance with respondent No.2 with malafide intention, is trying to cut and remove the poplar trees from the land of the applicant, as applicant is an old lady, whereas respondent No.2 is an influential person. It was alleged that applicant/ petitioner is a necessary party in this case and she is owner of the half share of the land measuring 238 kanal situated at village Beer Tapu, District Yamuna Nagar. Respondent No.2 Balwant Rai has nothing to do with the land of the applicant. It was also alleged that dismissal of the application filed by the petitioner would cause multiplicity of proceedings.

4. This application filed under Order 1 Rule 10 CPC was dismissed by the trial Court vide order dated 04.12.2024. Aggrieved against

the said order, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

5. Learned counsel for the petitioner has contended that the applicant is real owner of the land situated at Beer Tapu comprising in khasra No.42//1, 2, 3, 4, 8, ,9, 43//4, 5, which is adjoining to the suit land of the plaintiff. The applicant has planted poplar trees in the same which were planted and nourished by the petitioner, but plaintiff in connivance with defendants are trying to grab the land as well as poplar trees planted by applicant/ petitioner in his own land, under the garb of false demarcation report obtained from the Tehsildar Jagadhri in connivance with each other. He has further contended that poplar trees which are about 350 in number are still standing at the spot and the plaintiff in connivance with respondent No.2 with malafide intention is trying to cut and remove the poplar trees from the land of the applicant. He has argued that the applicant/ petitioner is a necessary party in this case being owner of the half share of the land measuring 238 kanal situated in village Beer Tapu, District Yamuna Nagar and respondent No.2 Balwant Rai has nothing to do with the land of the applicant situated at village Beer Tapu. The plaintiff has not intentionally impleaded the applicant as defendant in the case. He has submitted that impleading of applicant is necessary for proper decision of the case and to decide the lis effectively and completely and otherwise, it will result in multiplicity of proceedings and has prayed that the present revision petition be allowed.

6. I have heard learned counsel for the petitioners and have gone through the relevant record.

7. It has been alleged by the applicant that she is owner of khasra No.42//1, 2, 3, 4, 8, 9, 43//4, 5, situated at Beer Tapu, which is adjoining to the suit land of the plaintiff and applicant has planted poplar trees in the same, but no jamabandi has been produced on record regarding identity of the said property. Even no demarcation report has been produced in order to prove that matter in issue is relating to her property. On the other hand, plaintiff has sought relief for possession of land measuring 15 kanals qua khasra No.4//23, 7/3, 4, 6, situated at village Odhri and for permanent injunction restraining the defendants from cutting and removing the poplar trees standing in the land of the plaintiff. The plaintiff has not sought any relief against the applicant. Present suit is pertaining to khasra No.4//23, 7/3, 4, 6, situated within the revenue estate of village Odhri and khasra No.42//1, 2, 3, 4, 8, 9,, 43//4, 5 situated at village Beer Tapu are not in dispute.

8. Order 1 Rule 10(2) CPC reads as follows:-

“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 joined, 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.”

9. It is the trite law that insofar as impleading of parties to the suit is concerned, the applicant has to be a necessary party or a proper party to

the proceedings. Necessary party is one without whom no effective order can be passed. Proper party is one whose presence is necessary for a complete and final decision. Unless these requirements are satisfied, a person cannot be added as a party to a suit.

10. The present suit is a suit for possession and a suit for possession has been filed against the person who is alleged to be in illegal possession and Balwant Rai (defendant) is alleged to be in illegal possession. So, learned trial Court has rightly held that the applicant is not a necessary or proper party in the present case and no relief has been sought against her.

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

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

(SUKHVINDER KAUR)
JUDGE

13.01.2025.

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