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

CR-2603-2026**Date of Decision: 08.04.2026****KULWANT SINGH**

..... Petitioner

*Versus***BALKAR SINGH AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. S.S. Swaich, Advocate with
Ms. Deepa Negi, Advocate,
Ms. Deepika, Advocate
Ms. Ishani Goyal, Advocate and
Ms. Navjot Kaur, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition is directed against the order dated 02.03.2026 (Annexure P-6) passed by learned Civil Judge (Sr. Divn.), SAS Nagar, Mohali vide which an application under Order 1 Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908 moved by the petitioner for impleading him as a defendant in the counterclaim filed in Civil Suit No.999 of 2019 titled '*Balkar Singh and another Vs. Lakhwinder Singh*', has been dismissed.

2. The said suit has been instituted by one Lakhwinder Singh to the effect that the Will dated 20.02.2017 executed by his father namely Darshan Singh in favour of defendants Balkar Singh and Surjit Kaur is illegal, null and void and the same is liable to be cancelled/set aside as



the same has been executed by late Shri Darshan Singh only to deprive the plaintiff of his right in the suit property by birth which was ancestral Joint Hindu Family, coparcenary property in the hands of the said Darshan Singh.

3. Defendants have filed their written statement-cum-counterclaim to the effect that they are joint owners in possession of the suit property and a decree for mandatory injunction has been sought for directing the plaintiff to hand over the possession of the first floor of the house to them alongwith a suit for recovery of Rs.95,000/- towards mesne profit alongwith interest.

4. Feeling aggrieved, the petition in hand has been preferred. The material on file has been perused and parties have been heard.

5. Hon'ble Supreme Court in 2025(3) RCR (Civil) 176, ***Sulthan Said Ibrahim versus Prakasan & Ors.*** has explained the scope of Order 1 Rule 10(2) as under:

"45. The power to strike out or add parties under Sub-rule (2) can be exercised by the court on an application made by the parties before it, or upon an application by a third party who desires to be added as a party, or even suo motu. Explaining the object underlying Order I Rule 10, this Court in Ramesh Hirachand Kundanmal v. Municipal Corpn. Of Greater Bombay reported in (1992) 2 SCC 524 observed thus:

'6. Sub-rule (2) of Rule 10 gives a wide discretion to the Court to meet every case of defect of parties and is not affected by the inaction of the plaintiff to bring the necessary parties on record. The question of impleadment of a party has to be decided on the touchstone of Order 1 Rule 10 which provides that



only a necessary or a proper party may be added. A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. The addition of parties is generally not a question of initial jurisdiction of the Court but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case.

6. Order 1 Rule 10 of the Civil Procedure Code (CPC), 1908, thus empowers courts to add, substitute, or strike out parties to a suit at any stage to ensure necessary parties are present for complete adjudication. Under sub-rule (1), if a suit is filed by the wrong person as plaintiff or if there is uncertainty regarding the correct plaintiff, the Court may substitute or add the right person, provided the mistake was made in good faith and the change is essential to determining the real matter in dispute. At any stage of the legal process, under sub-rule (2), the Court has the power, either on its own or through an application, to remove the name of any party who was improperly included or to add any person who should have been joined or whose presence is necessary for a final adjudication of all issues. In simple words, it provides for the addition of necessary and proper parties as well as the removal of any unnecessary or improper party. A necessary party is one without whom no effective decree can be passed, while a proper party is one whose presence is required for complete adjudication.

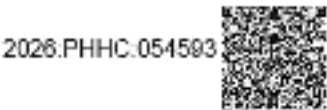
7. In the said suit, petitioner moved an application for impleading him as a defendant in the counterclaim submitting that he has



a direct, legal and substantial interest in the suit property because the applicant has also filed one Civil Suit No.1347 of 2013 titled '*Kulwant Singh Vs. Gulzar Kaur*' and others seeking declaration to the effect that the applicant is owner of one half share of the land comprised in the suit property involved in the suit filed by him. He has also challenged the legality and validity of mutation Nos.2448 and 2724 got sanctioned by the said Gulzar Kaur in her favour on the basis of Will dated 19.11.1979 alleged to have been executed by Tara Singh in her favour. The claim of the applicant is also about the same property as raised by the parties in the suit. The said suit filed by the petitioner was dismissed vide judgment and decree dated 18.12.2015 but an appeal is pending in the Court of Additional District Judge, SAS Nagar, Mohali, in which plaintiff No.1 and defendant are also parties being LR's of deceased Darshan Singh. It is further submitted that the applicant was a necessary party whose right and interest are likely to be squarely prejudiced and affected by the decree that may be passed in the present suit, as the suit property in the present case is also the subject matter of the suit/appeal instituted by him. Without impleading the applicant, any decision rendered by this Court will lead to multiplicity of litigation.

8. The counter-claimants opposed the application submitting that the applicant is neither a necessary nor a proper party for the decision of the present suit.

9. However, in the present case, the dispute is about execution of the Will by Darshan Singh which has been allegedly executed in favour of defendants Balkar Singh and Surjit Kaur and the same has been assailed by his another son namely Lakhwinder Singh. The applicant is



not one of the legal heirs of the said Darshan Singh and he is not at all affected by the Will executed by the said Darshan Singh. The applicant does not have any share in the property left behind by Darshan Singh and he will not be affected by the execution of the Will by the said Darshan Singh and as such, he is neither a necessary nor a proper party to the present suit. If he is made a party to the present counterclaim, the nature of the present counterclaim regarding inheritance of Darshan Singh will change to that of inheritance of Tara Singh. Petitioner has already instituted his own suit and against dismissal of his suit an appeal is pending in which inheritance of Tara Singh is in dispute which is sub-judice before the Appellate Court. Moreover, the ownership of any of the counter-claimants over the suit property or the applicant shall always be subject to the decision of the earlier suit in which ownership of Darshan Singh and his mother Gulzar Kaur is already under challenge. In these circumstances, the presence of the petitioner is not at all essential for the just decision of the case and he is, thus, neither a necessary party nor a proper party for the adjudication of the suit. The learned Trial Court has also appreciated the facts of the case in the correct perspective while rejecting the application and the impugned order does not suffer from any material illegality or manifest error so as to call for any interference.

- 10. Resultantly, the petition in hand is ordered to be dismissed.
- 11. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

08.04.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No