

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

RSA No. 1428 of 1991 (O&M)

Date of decision: 23.12.2015

Gram Panchayat

... Appellant

versus

Swaran Das

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Chandar Mohan Munjal, Advocate for the appellant.

None for the respondent.

K.Kannan, J. (ORAL)

The following question of law arise for consideration in the regular second appeal:

1. Whether the Lower Appellate Court was justified in reversing the decree of dismissal on a finding that the plaintiff had not proved that it was an evacuee property against the revenue entry referring to the property as shamlat deh?

The appeal has been admitted without framing substantial questions, therefore, I have framed the question as above and with the consent of the counsel the appellant, the appeal itself is taken up for hearing.

The suit has been instituted by the plaintiff on a plea that the property had been granted to the plaintiff's father as displaced person in a limited auction held on 19.05.1966. In the mutations entries in the year 1979-80, the Gram Panchayat was recorded as the owner and this had created a cloud on the plaintiff's right of the property. He was, therefore, compelled to institute a suit for declaration.

The defendant referred to the fact that the *jamabandi* entry for the year 1961-62 showed that the property was *Shamlat Patti Ruldu*

Hasab Kabza Arazi Malkiat. Alongside, the column No.4 of this jamabandi was entered in the column No.5 that the land was evacuee.

The trial Court approached the issue from the point of view of how The Displaced Persons (Compensation And Rehabilitation) Act, 1954, could be invoked only if the property had been shown to be an evacuee property, but, he failed to note that even in the *jamabandi* entry for the year 1961-62, there was a reference to the property as evacuee. If the property had also been sold in the limited auction and the sale certificate had been issued in the name of the plaintiff's father brought through the records as Ex-P1, the plaintiff had literally proved what was necessary for him to prove. The revenue entry showing the property to be evacuee and the actual sale as such evacuee land in the year 1966, it is sufficient for the plaintiff to rely on it as source title and if only the defendant could establish that the property was put to any common use prior to coming into force of Punjab Village Common Land Act, 1961, by reference to any document such as revenue entry showing the property to be held for a common purpose, the effect of sale by the Government and the claim to title by the plaintiff could not have been defeated. The Lower Appellate Court has correctly addressed the legal position and has reversed the decision and granted the decree in favour of the plaintiff.

The point of law involved in this case is decided against the appellant. I will find no reason for interfering with the decision. The regular second appeal is dismissed.

(K.KANNAN)
JUDGE

23.12.2015

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