

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

Date of Decision: 18.05.2015

(1) **RSA-2225-2010 (O&M)**

State of Haryana & others

..... Appellants

Versus

Ram Avtar & others

..... Respondents

(2) **RSA-2475-2010 (O&M)**

Power Grid Corporation of India Limited

..... Appellant

Versus

Ram Avtar & others

..... Respondents

CORAM : Hon'ble Mr. Justice Rajiv Narain Raina

Present: Mr. Mukesh Kaushik, DAG, Haryana
for the appellants in RSA No. 2225 of 2010.

Mr. Ashok Kumar Jindal, Advocate and
Mr. Sanjay Mittal, Advocate
for respondent No.1 in RSA No. 2225 of 2010.

Mr. Amit Jain, Advocate
for respondent No.4 in RSA No. 2225 of 2010 and
for the appellant in RSA No. 2475 of 2010.

None for the remaining respondents.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest.

RAJIV NARAIN RAINA, J. (oral)

This order shall dispose of above referred two regular second
appeals i.e. RSA Nos. 2225 & 2475 of 2010 involving common question of

law and facts.

The short question raised in the present and the connected appeal is : whether the Civil Court has jurisdiction in a matter involving *Shamilat Deh* in the face of bar in Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act) as applicable to the State of Haryana and, therefore, the judgment and decrees of the Courts below have been passed without jurisdiction.

Section 13 of the Act reads as follows :-

“13. Bar of Jurisdiction in civil courts.- No civil courts shall have jurisdiction--

(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not shamilat deh vested or deemed to have been vested in a Panchayat under this Act; or

(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act; or

(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine.”

The question then is, whether a determination of rights asserted by the proprietors of the village in the representative suit from where these appeals arise has to be adjudicated by the revenue authorities. In this, the law appears to be settled that when the plaintiff claims a right or interest in the *Shamilat deh* property, parties are to be left to take recourse to their remedies before the Collector of the District in which falls the disputed property.

It may be mentioned that suit property was a *Tiba* and has been sold by the Gram Panchayat to the State of Haryana for a sale consideration of ₹ 5424000/-. The land has become forest land by

operation of the sale deed executed in favour of the State. If the proprietors of the village are affected by the sale, in any manner, then they are free to avail legal remedies as admissible in law, if any.

Since the issue of entertainability goes to the root of jurisdiction and the civil courts have exercised such jurisdiction to adjudicate the dispute, both the judgment and decrees of the courts below are not legally sustainable for lack of jurisdiction. Consequently, both the appeals are allowed. Judgments and decrees of the Courts below are set aside. The findings recorded by the courts below are rendered non-readable in any litigation brought before the revenue authorities on the same cause of action. If revenue proceedings are taken out by the persons interested and who feel aggrieved, the revenue authorities would not be swayed by anything said in the orders in the appeal.

Parties are left to bear their own costs.

The parties are free to canvass their cases before the revenue authorities as are available to them in law.

(RAJIV NARAIN RAINA)
JUDGE

18.05.2015
'sp'