

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

RSA No. 1195 of 2015 (O&M)

Date of decision : 28.5.2015

Attar Singh

... Appellant

VS

Gram Panchayat, Village Bakhtawarpur

... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Harkesh Manuja, Advocate, for the appellant.

Rajesh Bindal, J.

The defendant is before this Court against the judgment and decree of the learned Lower Appellate Court whereby that of the trial Court was reversed and the suit filed by the respondent-plaintiff, was decreed.

Briefly, the facts as are available on record are that the respondent-plaintiff filed a suit for declaration claiming ownership of the suit property i.e. 18 kanals 12 marlas of land, situated in village Bakhtawarpur, Tehsil and District Sonapat. It was further prayed for declaring the judgment and decree dated 9.11.2003 passed in Civil Suit No. 308 of 2003 as null and void. Relief of permanent injunction was also prayed for restraining the present appellant-defendant from alienating the suit property.

It was claimed by the respondent- Gram Panchayat that 18 kanals 12 marlas of land owned and possessed by the Gram Panchayat was exchanged with the appellant for 11 kanals 17 marlas with the connivance of the then Sarpanch. The land owned by the Gram Panchayat was not only more than in area but was also more valuable being close to the abadi as compared to the land of the appellant. It was further pleaded by the respondent-plaintiff that prior approval of the Government was not taken for the exchange. The trial Court dismissed the suit, whereas the learned Lower Appellate Court reversed the judgment and decree of the trial court and

decreed the suit filed by the respondent-plaintiff. The judgment and decree of the learned Lower Appellate Court has been impugned in the present appeal.

Learned counsel for the appellant submitted that the exchange was effected at that stage for the reason that the village pond had come close to the abadi area and to avoid any untoward incident, it was decided to be shifted. No doubt, the land owned by the appellant was located 5-6 acres away from the abadi, whereas the land given in exchange to the appellant was located close to the abadi. Once a resolution is passed and the Gram Panchayat had suffered a decree of exchange, merely because of change of power, the earlier decisions taken by the Gram Panchayat should not be allowed to be reversed. The Gram Panchayat had been enjoying the fruits of the land taken in exchange as it was being auctioned regularly. Possession thereof is still with the Gram Panchayat. However, he did not dispute the fact that there was no permission taken by the then Gram Panchayat from the Government for exchange of the land.

After hearing learned counsel for the appellant, I do not find any merit in the submissions made.

It is not in dispute in the case in hand that the entire process of exchange of land was completed by the then Sarpanch in a hurry. Neither permission of the Government was sought nor both portions of the land were valued. It is not in dispute that the area given by the Gram Panchayat to the appellant in exchange was more and close to the abadi i.e. 18 kanals 12 marlas as compared to the area given by the appellant in exchange i.e. 11 kanals 17 marlas.

In fact the cat was out of bag, when the evidence led in the case was considered. The then Sarpanch Smt. Sahab Kaur while appearing in Civil Suit No. 308 of 2003 titled as Gram Panchayat vs Attar Singh stated that the land has been exchanged for shifting the pond in the land of the appellant as the old pond had dried up and the same was quite close to the abadi area. Resolution dated 6.9.2003 approving exchange of land mentioned that the pond is sought to be shifted in public interest as it come close to the abadi area and there was apprehension of drowning of children playing nearby the pond. Park was required to be constructed there.

The aforesaid facts clearly established connivance of the then Sarpanch with the appellant. The resolution was passed by the then Gram Panchayat on 6.9.2003. The suit was filed on 11.9.2003 and the statement of the parties were recorded on 22.9.2003 and the decree was passed on 9.11.2003. The sequence of the aforesaid events clearly establish that the parties wanted to be full proof while getting the decree passed from the court approving the exchange. No permission of the Government as required under Rule 5 of the Punjab Village Common Lands (Regulations) Rules, 1964 (as applicable to Haryana), was taken.

For the reasons mentioned above, I do not find any merit in the present appeal. No substantial question of law arises.

The appeal is, accordingly, dismissed.

28.5.2015
vs

(Rajesh Bindal)
Judge