

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2909 of 2015
Date of decision : September 28, 2015

Gram Panchayat

..... Appellant
Versus

**Jumla Mustarka Malkan (Joint Biswedaran/proprietors) of
Shamlat Thola of Village Hasanpur through its
Bisewars/representatives**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. V. D. Sharma, Advocate
for the appellant.**

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present appeal is to the concurrent finding of fact, whereby, the suit filed under order 1 Rule 8 CPC by the proprietors of Village Thola have been decreed.

Learned counsel for the appellant submits that by virtue of amendment in the Act i.e. Punjab Village Common Land Act, 1953 (hereinafter called as 'the Act') and as well as notification, the property in dispute was mutated in the name of Gram Panchayat, therefore the respondents-plaintiffs could not have claimed the right and title in the property. Both the courts below have committed

illegality and perversity in not noticing the aforementioned fact and thus, a substantial question of law arise for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book.

The question, which had been determined by the courts below as well as sought to be determined by this Court is, as to whether the property falls within the definition of shamlat thola under Section 2 (g) of the Act or exclusive property of the proprietor of Shamlat Thola Sheo Lal as per jamabandi for the year 1987. The property was in the ownership and possession of the proprietors aforementioned and the revenue authority on the basis of promulgation of Act 9 of 1992 inducted the Gram Panchayat-defendant as owner of the property. Since the property during the consolidation proceedings fell into the share of proprietors of Thola, it was meant for enjoyment of proprietors in question, but not for any specific purpose. Therefore, in view of the above, the property would not fall within the definition of Section 2(g) of the Act.

Therefore, in my view, the judgments and decrees of the courts below do not suffer from any illegality and perversity. The plaintiffs have been held to be joint owners in possession of the disputed property measuring 143 kanals 13 Marlas along with other property.

I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for

determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 28 , 2015
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