

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

RSA-1465-2014 (O&M)

Date of Decision:-**20.10.2015**

Gram Panchayat Bharan

...Appellant

Versus

Ramesh Chand & Anr.

...Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr.S.P.Chahar, Advocate for the appellant.

K.KANNAN, J.

The plaintiff filed the suit that the property which stood in the name of his father as *gairmaurusi*, had been changed in the name of Gram Panchayat without any notice to him as his son and hence not binding. Defendants' contention was that plaintiff's father died 30 years back and continuance of entry in the name of dead person will not constitute any right in favour of plaintiff. It was the further contention of the Gram Panchayat that it had taken possession of property in the year 2006 and leasing out the same for augmenting income. Plaintiff was not in possession and relief of injunction was not competent.

The trial Court decreed the suit finding that the entry in the name of father of plaintiff would avail benefit of enjoyment of property after his father's death and though mutation was not effected. The relief of injunction was consistent with the entry in revenue record referring to the father as person in possession. This judgment was assailed by the Gram Panchayat in appeal and appeal also failed.

The point urged by the counsel for Gram Panchayat is that property is *shamlat deh* and plaintiff is also not living in village. He cannot assert any right in the property and cause obstruction to defendant from putting to use for being cultivated through lease. I reject this contention, giving primacy to entry, which stood in the name of father of plaintiff and that correction has been done without any notice to the person, who would be affected. The plaintiff will have the benefit of revenue entry standing in the name of the father unless there is a case of surrender by lessee in favour of owner. If there was no case of surrender, court was entitled to act on entry that stood in the name of plaintiff's father and find mutation effected in favour of the panchayat as not binding on the plaintiff and also provide counsel for relief of injunction sought for by plaintiff. Judgments of courts below do not suffer from any infirmity. No question of law in favour of the Gram Panchayat arises for consideration. The second appeal is dismissed.

(K.KANNAN)
JUDGE

20.10.2015
AS