

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A. No. 1570 of 2014 (O&M)

Date of Decision:- 11.05.2015

Satbir Singh

.....Appellant

Versus

Gram Panchayat village Ritoli

.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. Karan Singh, Advocate,
for the appellant.

SHEKHER DHAWAN, J.

Present Regular Second Appeal against the concurrent finding of both the Courts below in a suit for permanent injunction filed by appellant.

2. For the sake of convenience, the parties are being referred to as per their status before the Court of first instance.

3. The detailed facts of the case have already been recaptured in the judgments of the Courts below. However, relevant facts for the purpose of decision of present Regular Second Appeal are that plaintiff

had filed suit for permanent injunction for restraining the defendant-Gram Panchayat from dispossessing him from the house by demolishing the structure like *khori*, *khoochte* and *engine* etc. As per plaintiff, he is in establish possession of the disputed property. Defendant contested the suit that present suit is not maintainable and otherwise there is no cause of action for the plaintiff to file suit. The jurisdiction of the Court was also challenged as per under Section 205 of The Haryana Panchayati Raj Act.

4. The Court of first instance after framing of issues and appreciating the evidence returned the finding that the dispute is on the point whether the suit land forms part of the property belonging to Gram Panchayat or not; whether encroachment has been done by the plaintiff on the same; and whether the jurisdiction of civil Court is barred? More so, notice under Section 205 of The Haryana Panchayati Raj Act was a mandatory provision but plaintiff nowhere mentioned about issuance of notice. Plaintiff preferred first appeal but remained unsuccessful and as such second appeal before this Court.

5. Mr. Karan Singh, Advocate, learned counsel for the appellant took the plea that both the Courts below have not appreciated the real controversy. The plaintiff is in establish possession on the suit property and as such had sought the relief of permanent injunction. The Courts below have completely ignored this fact as well as evidence led before the Courts. Learned counsel for the appellant also took the plea that the present litigation was started at the instance of sarpanch of Gram

Panchayat, who had personal differences with the plaintiff. The plaintiff is in establish possession on the land in question on the basis of revenue record of the *jamabandi*. So, the present appeal be accepted and judgments and decree of both the Courts below be set aside and suit of plaintiff be decreed.

6. As regards, notice under Section 205 of The Haryana Panchyati Raj Act, learned counsel for the appellant took the plea that, in such like cases, civil suit is always maintainable without serving mandatory notice. On this point, reliance has been placed upon judgment of this Court in case **Rup Chand Vs. Gram Panchayat, Pakho Kalan**, 1977 PLJ, 77.

7. Having considered the submissions made by learned counsel for the appellant and perusal of the record, this Court is of the considered view that both the Courts below have already appreciated the controversy in its true perspective that jurisdiction of suit is completely barred, as the *lis* is between a private individual and Gram Panchayat. Section 13 of The Punjab Village Common Lands (Regulations) Act, 1961 puts a complete bar of jurisdiction in such like cases.

8. More so, the issuance of notice under Section 205 of The Haryana Panchayati Raj Act, 1994, was required to be issued and that has not been done, rather plaintiff had not mentioned this fact in the plaint. Both the Courts below have already taken note of it and returned the findings of fact. The said concurrent findings do not call for any interference. There is absolutely no substantial question of law involved

in the case, calling for interference, by way of present Regular Second Appeal.

9. Hence, the present Regular Second Appeal is without any merit and the same stands dismissed.

May 11, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE