

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 201 of 2014 (O&M)
Date of decision:- 08.09.2015

Ranjit Singh @ Ranbir Singh

...Appellant

Versus

Gram Panchayat

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Premjit Kalia, Advocate
for the appellant.

RITU BAHRI J.

Plaintiff-Appellant (for short 'the appellant') is in second appeal against the concurrent finding of fact recorded by both the Courts below whereby the suit of the appellant was dismissed.

The case of the appellant before both the Courts was that the suit land is a Bachat Land and is to be recorded as ownership of Mushatarka Malkan in jamabandi. During consolidation, this land was never reserved for any common purpose of the village. The appellant belongs to Jat community and owns land in the village. Prior to appellant, his predecessors in interest were in possession of the suit land without payment of any rent and cess etc to anybody. Gram Pandhayat had no right, title or interest in the suit land. The same has never been auctioned by Gram

Panchayat and has never been in its possession. The entry in the jamabandi regarding ownership of Gram Panchayat is liable to be corrected. The name of the Gram Panchayat in column of ownership of jamabandi be deleted and of Mushatarka Malkan be inserted after consolidation till date.

On notice, defendant/respondent appeared and filed written statement taking preliminary objections that jurisdiction of the Civil Court is barred under Section 13 of the Punjab Village Common Lands Act, 1961. The appellant is not in possession of the property and on merits, it was stated that suit land is owned and possessed by Gram Panchayat. It was reserved for common purpose for village community in consolidation scheme and was allotted to Gram Panchayat and since consolidation Gram Panchayat is its owner and is using it for benefit of village community. The suit land belongs to Mushatarka Malkan of the village. Vide resolution dated 06.02.2009, Gram Panchayat has given the suit land to Water Supply Department for construction of water tank in the suit land for the benefit of village community and entire village community will drink clean water. Foundation stone of water supply scheme has been laid.

From the pleading of the parties, the following issues were framed by the trial Court:-

“1. Whether the plaintiff is entitled to declaration

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as prayed for? OPP

2. Whether the plaintiff is entitled to permanent injunction as prayed for? OPP

3. Whether the jurisdiction of Civil Court is barred under Section 13 of the Punjab Village Common Land Act, 1961? OPD

4. Whether the suit is not maintainable? OPP

5. Whether the plaintiff has no locus standi to file the present suit?OPD

6. Relief.”

Both the Courts after going through the entire evidence led by the parties dismissed the suit of the appellant and gave a concurrent finding of fact that the suit was barred by limitation, as the appellant in grounds of appeal stated that illegal tampering has been done in the revenue record by Patwari Halqa and revenue record upto 1970-71 shows name of 'Mushatarka Malkan' in column No. 4 of jamabandi and thereafter the name of Gram Panchayat has been mentioned without any proper reason. The appellant is claiming to be in possession of the suit land right from consolidation onwards till today. But the appellant kept silent and has filed the suit in the year 2008, which is thus barred by limitation. Further the appellant himself did not step in to witness box to support his own case. Only witness examined by him is P.W.1 Dalbir Singh who in his

cross examination admitted that as per jamabandi of the year 2005-06, suit land is owned by Gram Panchayat Deh. Thus, this witness admitted the ownership of Gram Panchayat and the revenue record supports the same. He further admitted that water tank bore has been dug in the land in dispute for the purpose of water supply scheme for drinking water to the villagers. It is not the case of the appellant that he has been dispossessed from the suit land during the pendency of the suit.

In view of the above, the judgments passed by both the Courts calls for no interference. No substantial question of law arises for adjudication by this Court, as no evidence has been misread by both the Courts below.

Accordingly, regular second appeal is dismissed.

September 08, 2015
G Arora

(RITU BAHRI)
JUDGE