

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1227 of 2014 (O&M)

Date of Decision: 25.05.2016

Suraj Bhan

... Petitioner(s)

Versus

Sukhbir

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. S.R.Hooda, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside the order dated 16.1.2012, passed by learned Civil judge (Senior Division), Sonapat, whereby execution petition under Order 21 Rule 97 CPC was dismissed and order dated 6.12.2013, passed by learned District Judge, Sonapat, whereby appeal was dismissed.

Relevant facts of the case that initially, suit for partition qua *Abadi Deh* land situated in village Khanda, Tehsil & District Sonapat was filed and the same was decreed and execution petition was filed by the plaintiff for taking possession of the suit land. During execution

the plot. Respondent raised unauthorized construction of *kotha* towards the western side of the plot and taken possession of 50 square yards.

Respondents contested the execution petition on the ground that decree has already been set aside in a regular suit by the Collector, Sonapat under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”) in the suit filed by Pawan Kumar vide judgment & decree dated 28.7.2010 as the suit land was *Shamlat Deh*, which was vested in Gram Panchayat of village Khanda. The jurisdiction of the Civil Court was barred under Section 13 of the Act and only the Revenue Officer was authorized to partition the agricultural land.

On the said pleadings, the issues were settled and the Court of first instance recorded the findings that partition of land was sought which is *Shamlat Deh* and the same was not situated within the *Abadi Deh* of the village and jurisdiction of the Civil Court was barred in view of Section 158 of the Punjab Land Revenue Act, 1887. Preliminary decree dated 13.5.1991 was obtained by playing fraud upon the Court. Otherwise, the jurisdiction to decide whether any property vests in Gram Panchayat or not is of Revenue Authority under Section 13-A of the Act and not of the Civil Court. The Collector, Sonapat has already held vide order dated 28.7.2010 that the suit property is *Shamlat Deh* and as such vests in the Gram Panchayat and the same cannot be allowed to be grabbed by the plaintiff and as per provisions of Section 13-D of the Act, decree in the present case is to be ignored and execution petition, filed by the petitioner was dismissed and first Appellate Court dismissed the appeal.

Learned counsel for the petitioner, while assailing the findings

of the Courts below, submitted that it is settled proposition of law that order of Revenue Authorities is not binding on the Civil Court and vice-versa. More so, suit land is situated within the *Abadi Deh* and not *Shamlat Deh* and as such jurisdiction is of the Civil Court and not of the Collector to decide so. Otherwise, Revenue Authorities are to decide the partition in respect of agricultural land alone. But the Courts below completely ignored this fact while recording the findings and the same are liable to be reversed.

Learned counsel for the respondent, while arguing on these points, submitted that both the Courts below have already recorded findings of facts and the same do not call for any interference by way of present petition. Otherwise, if there is any *lis* whether any property vests in the Gram Panchayat or not and the controversy regarding vesting or non-vesting of the property in the Gram Panchayat, the jurisdiction to decide the same is of the Civil Court. There is complete bar of jurisdiction of Civil Court as per Section 13 of the Act. More so, the suit land has already been held to be *Shamlat Deh* and not *Abadi Deh*. The present petition is absolutely without any merit and the same be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that the Courts below have already appreciated the entire controversy on the basis of entire material and evidence available on the file and recorded findings of facts that suit property is *Shamlat Deh* and the dispute was regarding vesting or non-vesting of the suit land in the Gram Panchayat, Khanda. As such, jurisdiction of Civil Court was completely barred. The Collector, Sonapat has already decided vide order dated

28.7.2010 that suit property vests in the Gram Panchayat being *Shamlat Deh*. The dispute was not regarding agricultural land. The Courts below have already considered the entire controversy and recorded findings of facts and the same do not call for any interference by way of present petition.

Consequently, there is absolutely no illegality in the orders passed by the Courts below and present petition is hereby dismissed being devoid of any merit.

(Shekher Dhawan)
Judge

May 25, 2016
“DK”