

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**1. Civil Revision No.2545 of 2015
Date of Decision: 29.09.2016**

Jeeto Devi and another	Petitioners
Vs	
Rakam Singh and another	Respondents

2. Civil Revision No.3229 of 2015

Jeeto Devi and another	Petitioners
Vs.	
Joginder and another	Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Arvind Singh, Advocate
for the petitioners.

Mr. Anuj Balyan, Advocate
for respondent No.1.

Mr. Subhash Chand, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Vide this common order two Civil Revision Nos.2545 and 3229 of 2015 are being disposed of. For brevity, the facts have been culled out from the first case i.e Civil Revision No.2545 of 2015.

[2]. Petitioners have assailed the order dated 09.03.2015 passed by Civil Judge (Jr. Divn.) Naraingarh vide which the

application under Order 1 Rule 10 read with Section 151 CPC filed by the petitioners for impleadment was dismissed.

[3]. Brief facts of the case are that the applicant/petitioners contended that the suit titled as Rakam Singh vs. The Gram Panchayat, Lalpur for permanent injunction restraining the defendant-Gram Panchayat from interfering in the possession of the plaintiff as co-sharer in *Mustaka Malkan* land measuring 16 *Kanals* was the result of concealment of material facts. The suit was filed on frivolous grounds against the Gram Panchayat. The acting Sarpanch Randhir Singh was contesting the suit on behalf of the Gram Panchayat, but he did not bring material facts on record due to collusive affair between him and the plaintiff. Previously plaintiff Rakam Singh along with Hem Raj, Lambardar, Mangat Ram, Krishan Singh, Bidhi Chand, Jagir Singh and Joginder Singh all residents of village Lalpur filed a suit titled Hem Raj and others vs. Gram Panchayat, Lalpur and another in respect of same property which was dismissed by the trial Court vide judgment and decree dated 28.02.2013. Hem Raj was the father of Sarpanch Randhir Singh and after his death, Randhir Singh contested the suit against the Gram Panchayat being one of the legal heirs. Interest of Randhir Singh was common with that of plaintiff in order to grab the land of the Panchayat. The land in question stood vested in the

Gram Panchayat, Lalpur, which was the owner in possession of the land. Plaintiff was not in possession at any point of time and has no right, title or interest in the suit property. The matter has already been decided by the Competent Authority under Section 13-A of Punjab Village Common Lands (Regulation) Act (for short 'the Act') by the Collector vide order dated 19.11.2013.

[4]. It was further contended that Acting Sarpanch deliberately did not contest the suit properly on behalf of the Gram Panchayat and he misled the Court in order to cause material damage to the property of the Gram Panchayat. Petitioners pleaded that Jeeto Devi is the acting member Panchayat. Karnail Singh is a former Sarpanch of the Gram Panchayat, Lalpur and being permanent residents of the village, they have interest in the suit property in a representative manner as well as being proprietors of the village.

[5]. Petitioners further pleaded that the suit filed by Mangat Ram was got decreed in collusion with the Sarpanch. On enquiry, the petitioners came to know that the suit was filed against the Gram Panchayat. Now grave apprehensions have been shown that Acting Sarpanch may not collude with the plaintiff so as to give benefit to the plaintiff in an illegal manner and the property of the Gram Panchayat may not suffer loss on

account of that reason.

[6]. The application filed by the petitioners was contested by the plaintiff Rakam Singh on the premise that the petitioners cannot maintain the application. Plaintiff/respondent No.1 pleaded that number of litigations are pending between plaintiff and the Gram Panchayat in civil as well as revenue courts on different stages and the Panchayat is contesting the cases vigorously. The cases are pending from the time of previous Gram Panchayat in which Karnail Singh was the Sarpanch and he was contesting the cases diligently. In case titled as Hem Raj etc. Vs. Gram Panchayat, Lalpur some disgruntled miscreant persons of the village filed the application under Order 1 Rule 10 CPC which was dismissed on 23.04.2011 by the Additional Civil Judge (Sr. Divn.) Naraingarh on merits.

[7]. The application was contested on the premise that the land in question is owned and possessed by *Jumla Mustarka Malkan Wa Diggar Haqdaran* of the village Lalpur. Evidently, the states of the petitioners being acting member Panchayat and Ex-Sarpanch of Gram Panchayat, Lalpur has been admitted by the plaintiff/respondent. Suit filed by Mangat Ram has been decreed. Concededly, number of litigations are pending between the parties in different civil and revenue courts at

different stages. The application filed by some persons in the suit filed by Mangat Ram already stood declined on 23.04.2011 by the Civil Judge. Admittedly, the land is owned and possessed by *Jumla Mustarka Malkan Wa Diggar Haqdaran* of the village Lalpur. Against the order dated 19.11.2013, passed by the Collector, Ambala under Section 13-A of the Act, an appeal was preferred by the plaintiff which is statedly pending in the Court of Commissioner, Ambala. Additional Civil Judge (Sr. Divn.), Naraingarh dismissed the application on the ground that plaintiff is a *dominus litis* and he cannot be compelled to contest against any person with whom he does not wish to contest. The addition of petitioners as a party-defendants in the suit would give to countless parties in the suit. The addition of parties is claimed to be totally against law as the petitioners are not necessary and proper parties in the presence of Gram Panchayat.

[8]. I have considered the submissions made by parties at length.

[9]. Admittedly the civil suit No.891 of 2006 was filed by Hem Raj and others against the Gram Panchayat and BDPO, Block Naraingarh, District Ambala in the year 2006. The said suit for permanent injunction was dismissed by the trial Court vide judgment and decree dated 28.02.2013 in which plaintiff

Rakam Singh son of Kreshan Singh and Joginder Singh son of Soran were parties. In the aforesaid suit, issue Nos.1 & 2 were framed to the following effect:-

- “1. Whether entries in the name of Gram Panchayat in respect of suit land are illegal, null and void? OPP”*
- 2. Whether the plaintiffs are in possession of the suit property? OPP*

[10]. Plaintiffs in the aforesaid suit, could not establish their possession over the land in question and issue Nos.1 and 2 were accordingly decided against them. The findings recorded under issue Nos.1 and 2 were conclusive in nature. The suit was dismissed on the ground of maintainability and jurisdiction under issue Nos.3 and 4 as well.

[11]. Having lost the earlier litigation, plaintiff Rakam Singh again ventured to file suit for permanent injunction which in all fairness has to be dealt with on the basis of evidence on record and in accordance with law. In a petition under Section 13-A of the Act, filed by the Gram Panchayat against Hem Raj and others including Rakam Singh and Joginder, the Court of Collector, Ambala has already given a verdict on 19.11.2013 that the aforesaid persons in connivance with revenue

authorities have got the mutation No.976 entered and sanctioned in favour of *Mustarka Malkan* from the name of Gram Panchayat *Deh* in an illegal manner. After considering the pros and cons of the litigation, the Collector held that the mutation No.976 sanctioned on 17.05.2006 was illegal and the suit of the Gram Panchayat was decreed. It is relevant to observe here that during the proceedings before the Collector, Karnail Singh, the then Sarpanch/petitioner No.2 appeared as witness on behalf of the Gram Panchayat and asserted that the land is owned and possessed by the Gram Panchayat. On the other hand, aforesaid Rakam Singh and Joginder also appeared as DW-3 and DW-4 respectively.

[12]. So having participated in the earlier suit, in the capacity of Sarpanch Karnail Singh, then Sarpanch of the Gram Panchayat and presently Ex-Sarpanch, in considered opinion of this Court is a necessary party, which can throw light upon the case, in case of any omission at the instance of any party to the litigation. Even otherwise, the provisions of Punjab Village Common Lands (Regulation) Act are applicable to the State of Haryana. Any person can set the machinery in motion against unauthorised occupant of the Panchayat property by getting him evicted from the land. In any case, the impleadment of the petitioners in the suit would not cause any prejudice to the

plaintiff as the Gram Panchayat is already on record to contest the suit against the plaintiff. The impleadment of the petitioners would definitely curtail multiplicity of litigation as real and contesting facts would come to fore.

[13]. Evidently, the dispute is viz.-a-viz. vesting of ownership of land in the Gram Panchayat. Petitioners are also proprietors of the village and their rights and liabilities are at par with that of the plaintiff in the suit. Interest being co-extensive cannot be held to be of prejudicial effect. The real cause of justice which in considered opinion of this Court has to be interpreted in the domain of public interest at large.

[14]. In view of aforesaid, in my considered view, the impugned order is liable to be set aside. Hence, the revision petitions are allowed by setting aside the order dated 09.03.2015 passed by the Civil Judge (Sr. Divn.) Naraingarh. The suit shall proceed by impleading the petitioners as party-defendants in the suit. Normal consequences may also follow.

September 29, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No