

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

**Civil Revision No.6025 of 2016
Date of Decision:15.9.2016**

Gram Panchayat

.....Petitioner

Vs

Piara Lal and another

.....Respondents

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

Present: Mr.Davinder Lubana, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

Petitioner has assailed order dated 30.8.2016 passed by Civil Judge (Jr.Divn.) Chandigarh, vide which application for framing of additional issues was dismissed.

Petitioner Gram Panchayat was defendant in the suit filed by respondent No.1 for declaration to the effect that plaintiff-respondent No.1 is the sole and absolute owner in possession of the suit land. Restraint was also sought against the defendants not to interfere in the possession and enjoyment of the plaintiff in the suit land. After necessary pleadings, issues were framed in the suit on 4.10.2011. Thereafter, plaintiff led

evidence and concluded the same. Evidence of the defendants started which already stands concluded after availing more than 20 effective opportunities. Both the parties have already led necessary evidence. The case is fixed for final disposal of the suit. At this stage, an application was filed by defendant No.1- Gram Panchayat for framing additional issues in respect of suit property i.e. whether the same is *shamlat deh* and is being used for supplying drinking water to the public at large ? In nut shell, the Gram Panchayat wanted to project that the suit land i.e. the water tank is the property of the Gram Panchayat which stood vested in it as *shamlat deh*.

Learned counsel contends that the petitioner would not lead any evidence except to frame additional issues. According to him necessary evidence has already been led on record. It is true that when both the parties are in knowledge of each others' case, framing or non-framing of issues is of no consequence, but in the instant case, plaintiff's evidence has already been concluded and thereafter, defendants also concluded their evidence by availing more than 20 effective opportunities. The factum of vesting of the suit property in the Gram Panchayat as *shamlat deh* or otherwise would be appropriately answered in the issue of entitlement of the plaintiff in which declaration has been sought by him in respect of his title.

In considered opinion of this Court, firstly, no such issues as proposed are necessary. Secondly, such an indulgence cannot be granted at this belated stage, particularly when both the parties have already led their respective evidence. Allowing such an application at this stage would result in de novo trial as after framing of additional issues, opportunity would require to be given to the plaintiff. In the event of availing such an opportunity by the plaintiff, defendants would be entitled to rebut the same. Thirdly, since the plaintiff has asked for declaration of title, vesting or otherwise of the suit land in Gram Panchayat as *shamlat deh*, the same would be appropriately gone into by the trial Court while deciding title of the plaintiff. Looked from any angle, the proposed framing of additional issues would not be in the interest of justice at this stage.

Having considered the controversy in the light of material on record, this Court does not subscribe the prayer of the petitioner. Resultantly, this revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

September 15, 2016

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Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No