

In the High Court of Punjab and Haryana at Chandigarh

RSA No.1716 of 2016(O&M)

Date of Decision: 19.5.2016

Umed Singh and others

---Appellants

versus

Gram Panchayat Garhi Sisana and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the appellants

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

Rekha Mittal, J.

The present appeal has been directed against the judgment and decree dated 29.9.2015 passed by the Additional District Judge, Sonapat whereby the appeal preferred by the respondent namely Gram Panchayat village Garhi Sisana has been allowed, the judgment and decree passed by the trial court has been reversed and the suit filed by the appellants/plaintiffs has been dismissed.

Counsel for the appellants has submitted that the first appellate court has reversed the well reasoned judgment passed by the trial court, in an illegal manner. It is argued that even if the appellate court has arrived at a conclusion that jurisdiction of the civil court is barred under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 (As applicable to the State of Haryana) (in short “the Act”), the court was

obliged to record its findings on all the issues. Another submission made is that as Samunder Singh Panch of the Gram Panchayat DW1 has admitted possession of the appellants/plaintiffs on the suit land, the Court should have protected their possession by allowing them relief of permanent injunction.

I have heard counsel for the appellants, perused the paper book and the judgments passed by the courts below.

A plain and casual reading of averments set up in the plaint, detailed in paras 1 to 5 of the judgment passed by the trial court would make it evident that the appellants/plaintiffs claimed themselves to be co-owners in joint possession of the agricultural land, subject matter of the suit, on the plea that the same is *thola majahad* of village Garhi Sisana and they being proprietors of the said *thola* and in cultivating possession of the suit land are entitled to declaration and injunction as prayed for.

The learned trial court framed the following issues for adjudication:-

1. Whether the plaintiffs are owners in joint possession of the suit land and mutation No. 1535 dated 30.7.1962 in favour of the defendant in respect of the suit land and subsequent jamabandies since 30.7.1962 are illegal, null and void on the grounds mentioned in the application? OPP
2. Whether the suit is not maintainable in the present form? OPD
3. Whether the plaintiffs have neither any locus standi nor any cause of action to file the present suit? OPD

4. Relief”

The suit instituted in the year 2008 was decided in January 2013. The appeal preferred by the Gram Panchayat remained pending for almost two years. Though, no doubt, it is an obligation of the Court to frame issues in view of pleadings of the parties but there is nothing on record suggestive of the fact that the appellants ever pressed for framing of an issue qua their entitlement to get injunction against interference in their alleged possession of the suit land.

So far as claim of the appellants that they are owners in joint possession of the suit land being proprietors of *thola majahad* of village Garhi Sisana, no fault can be found in the findings of the first appellate court that jurisdiction of the civil court to decide the question of ownership is clearly barred in view of the provisions of Section 13-A of the Act. As soon as a Court arrives at a conclusion that it lacks inherent jurisdiction to decide a matter, the Court may not record its findings on other issues as findings recorded by a Court without jurisdiction are of no consequence.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed. However, the appellants shall be at liberty to take recourse to appropriate remedy, in accordance with law, for adjudication of their claim qua the suit land.

As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

19.5.2016
PARAMJIT