

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

RSA No. 3104 of 2016 (O&M)

Date of Decision: 14.07.2016

Lal Chand

...Appellant

Vs.

Gram Panchayat Village Mohelra and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. R.S. Bajaj, Advocate,
for the appellant.

AMOL RATTAN SINGH, J.

1. This is the second appeal of the plaintiff, who filed a suit seeking permanent injunction against the respondents, the first respondent being the *Gram Panchayat* of the plaintiffs' village, where the suit land is also situate. By his suit, the plaintiff had sought that the respondents be restrained from interfering in his peaceful possession of a plot, marked out in the site plan stated to have been annexed with the plaint. He also sought a decree of declaration to the effect that the order passed by the Assistant Collector 1st Grade, Narnaul, dated 23.05.2003 and the order passed in appeal, by the Collector, dated 20.01.2004, be declared to be null and void and set aside.

2. The facts, taken from the judgment of the learned first appellate Court, are that the plaintiff had claimed that he was owner in possession of the suit plot and had therefore,

sought an injunction against the defendants, who, by the orders of the revenue authorities aforesaid, had been ordered to be ejected therefrom, as it was held that the plot fell in land that vested in the *Gram Panchayat* and was *Shamlat* land.

Upon notice issued to them, the defendants appeared and filed their written statements, stating therein as above, i.e. that since the land was *Shamlat* land, the plaintiff could have no right or interest in it.

3. Upon the pleadings of the parties, the following issues were framed by the learned Civil Judge:-

"1. Whether the defendants be restrained not to interfere in the peaceful possession and use of the suit property and also restrained not to oust him from the plot as alleged in the plaint?OPP

2. Whether the defendant is entitled to decree for declaration to the effect that the order dated 23.05.2003 and 20.01.2004 passed by the Collector and Assistant Collector are wrong, illegal, null and void and liable to be set aside?OPP

3. Whether the present suit is not maintainable in the present form?OPD.

4. Whether the civil Court has got no jurisdiction to try the suit?OPD

5. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD

6. Whether the present suit is time barred/OPD

7. Whether defendants are entitled to special costs from the plaintiff under Section 35A of CPC.

8. Relief.”

4. Evidence was also led by both the parties; in the form of documentary evidence by the plaintiff, the aforesaid two orders of the revenue authorities were produced, and oral evidence was led by examining 4 witnesses, including the plaintiff himself and one Chet Ram, *ex-Sarpanch*, Rati Ram, *Panch* and another person, Ramanand.

The defendants tendered 8 documents by way of documentary evidence, including a demarcation report, three site plans, two lists of attendance, various orders, a *jamabandi* etc. They also examined 8 witnesses, including the *Sarpanch* of the village, defendant No.2 Raghbir Singh, one Jai Singh, a *Sadar Kanoongo*, a draftsman, an Advocate and two clerks (presumably in the office of the revenue authorities, since no details thereof have been given in the judgments of the Courts below).

However, when the matter was put up for rebuttal evidence and arguments, the learned Civil Judge noticed Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961, (as applicable to Haryana), by which the jurisdiction of the civil Court, to entertain or adjudicate upon any question of right or interest in *Shamlat Deh*, has been specifically barred.

Hence, citing a judgment of this Court in **Gurudwara Shri Kalyan Sir Amritsar, Sirsa Vs. Municipal Committee, Ellenabad, Sirsa and others**, 2011 (2) RCR (Civil) 555, as also

in Gram Panchayat of village Kharak Vs. Hugli, 1991 PLJ 281, the plaint of the plaintiff was returned, "so as to enable the parties to file in proper form."

5. In the first appeal filed by the plaintiff, the learned Additional District Judge, Narnaul (wrong nomenclature of Additional Sessions Judge given in the judgment), after considering the pleadings, the evidence led, and the arguments on behalf of the parties to the lis, also held to the same effect, that jurisdiction of the civil Court in respect of any right, title or interest in *Shamlat* land, vesting in the *Gram Panchayat*, was barred. Hence, the first appeal was also dismissed.

6. Before this Court, Mr. Bajaj, Learned counsel for the appellant, submits that the learned Civil Judge (Junior Division), Narnaul, in the suit filed by the appellant-plaintiff, should not have simply returned the plaint on the ground of jurisdiction. He submits that the order of the revenue authorities being void *ab initio*, the Civil Court in any case would have jurisdiction to entertain and adjudicate upon the suit.

However, on query, as to whether the ownership of the suit land being that of respondent-*Gram Panchayat* was denied, learned counsel has submitted that as per the judgments of the Courts below, the ownership of the suit land was that of the *Gram Panchayat*, and after the orders of the revenue authorities for ejectment of appellant-plaintiff, possession of such land had also been taken by the *Panchayat*. However, he submits that as regards possession only, as a matter of fact, it had not

been taken from the appellant-plaintiff, by the Gram Panchayat.

6. Having, considered the above, seeing that the ownership of the *Gram Panchayat*, of the suit property, is not denied, I see no error in the judgments of the Courts below in holding that the Civil Court would have no jurisdiction to entertain the matter, in view of the bar contained in Section 13 of the Punjab Village Common Lands (Regulation), Act 1961, (as application to Haryana) which reads as follows:-

*"13. **Bar of Jurisdiction.**- No civil court shall have jurisdiction-*

(a) to entertain or adjudicate upon any question whether-

(i) any land or other immovable property is or is not shamlat deh;

(ii) any land or other immovable property or any right, title or interest in such land or other immovable property vests or does not vest in a Panchayat under this Act.

(b) in respect of any matter which any revenue court, officer or authority is empowered by or under this Act to determine; or

(c) to question the legality of any action taken or matter decided by any revenue Court, officer or authority empowered to do so under this Act."

Consequently, whatever remedy the appellant may have had, against the orders of the revenue Court, the ownership of the suit land being shown to be that of the *Gram Panchayat*, the jurisdiction of a Civil Court is expressly barred.

In fact, as per Section 13 (a) (i), even a question as to whether any land is or is not *Shamlat Deh*, can only be

adjudicated upon in proceedings before the Revenue Court under the Act of 1961 and not before the civil Court.

In view of the above, I find no error in the judgments of the Courts below, in returning the plaint and refusing to entertain the suit, on the ground of lack of jurisdiction with the civil Court.

Hence, finding no merit in this appeal, it is dismissed in limine, with no order as to costs.

(AMOL RATTAN SINGH)
JUDGE

July 14, 2016
nitin/vcgarg