

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

RSA No.5319 of 2016 (O&M)

Date of Decision.21.10.2016

Balwant Singh and others

.....Appellants

Vs

Gram Panchayat Budha Theh and others

.....Respondents

Present: Mr. Sharad Mehra, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.13817-C of 2016

For the reasons stated in the application, delay of 35 days in filing the appeal is condoned.

Application is allowed.

RSA No.5319 of 2016

The appellants-plaintiffs are aggrieved of the impugned order dated 11.05.2015 whereby the application under Order 7 Rule 11 CPC for rejection of the plaint has been allowed and the appeal filed challenging the same has also been dismissed by the lower Appellate Court vide judgment and decree dated 10.05.2016. The relief sought in the plaint was declaration that the appellants-plaintiffs are co-owners in exclusive possession of the land measuring 60 kanals 4 marals and also challenged the orders dated 30.07.2014 and 27.03.2015 passed by the Collector-cum-District Development and Panchayat Officer, Amritsar and Director, Rural Development and Panchayat Department Punjab/Commissioner respectively being wrong and illegal.

appellants-plaintiffs submits that the case set out in the plaint is that they were proprietors and therefore, the entry in favour of Gram Panchayat dated 19.12.1976 was subsequently cancelled, thus, the Civil Court will have jurisdiction under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no merit in the arguments of Mr. Sharad Mehra, for, admittedly the provisions of Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 would apply, in view of the embargo under Section 13 of the aforementioned Act, rightly so, the trial Court rejected the plaint and appeal filed against that also dismissed. In my view, the remedy lies elsewhere and not in the Civil Court.

For the reasons aforementioned, the order passed by the trial Court rejecting the plaint and appeal filed against thereto are upheld but liberty is granted to the appellants to assert their rights as set out in the plaint under Section 11 of the 1961 Act. The second appeal is disposed of with the above observations.

(AMIT RAWAL)
JUDGE

October 21, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable Yes