

IN THE HIGH COURT OF PUNJAB AND HARYANA,  
AT CHANDIGARH

RSA No. 3545 of 2014 (O&M)

Date of Decision: 17.11.2016

**Sital Singh and others**

**.....Appellants**

VS.

**Gram Panchayat and others**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Ghulam Bani Malik, Advocate,  
for the appellants.

Mr. Bipan Sharma, Advocate,  
for respondent no. 1.

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**AMOL RATTAN SINGH, J. (ORAL)**

This appeal impugns the judgment of the learned first appellate court, allowing the appeal of the respondent-Gram Panchayat and reversing the judgment and decree of the learned Civil Judge (Junior Division), Chandigarh, restraining the Gram Panchayat from raising construction over the suit land. Vide the impugned judgment and decree of the learned lower appellate court, it was held that the appellants-plaintiffs have no right over the suit land, which vests in the Gram Panchayat and further, that the respondent-Gram Panchayat also had no right to construct on the land, which was only meant for '*Hadda Rori*', i.e. for disposing of dead animals.

2. Learned counsel for the appellants first points to the prayer

made in the plaint by the appellant-plaintiff, to submit that the only relief

sought in the suit was that the defendants be restrained from raising illegal construction over the suit land. He thereafter points to the order of this Court dated 18.05.2015, in which it had been recorded that the counsel for the Gram Panchayat had stated that the land was being used for '*Hadda Rori*' and was not being used for making any construction.

An affidavit of the Sarpanch to that effect was then directed to be filed, vide the aforesaid order.

Pursuant to that order, an affidavit dated 19.10.2015 of Sh. Kuljeet Singh Sandhu, Sarpanch of the respondent-Gram Panchayat, was filed, stating therein that the land in dispute being public property is not being used for making any construction.

3. Learned counsel for the appellants further submits that the prayer of the appellants having been conceded to by the respondent-Gram Panchayat, the suit itself has now been rendered infructuous.

4. Even accepting the aforesaid, it is first to be seen that other than the Gram Panchayat, three other persons were impleaded in the the Civil Suit, i.e. Rattan Singh, Bant Singh and Bhajjan Singh, (with one of them shown to be a '*Panch*' of the Gram Panchayat but nevertheless impleaded by name). The defendants are also seen to have been represented by a common counsel before the learned Civil Judge as also before the learned first appellate court, where all the four defendants in the suit were appellants before that court.

(The present appeal has been filed by plaintiffs no. 1, 5 and 6 only, impleading the other plaintiffs as proforma respondents).

5. After notice was first issued in this appeal, the report of the Registry is to the effect that other than the respondent-Gram Panchayat,

which is duly represented by counsel, respondents no. 2 and 3 refused to accept service (with respondent no. 2 stating that the case does not relate to him). Respondents no. 3 and 4 also refused to accept notice. Respondents no. 5 and 7 were served through their brothers and respondent no. 6 was served through this son. Respondent no. 9 was served through his nephew and respondents no. 8 and 10, though had died, notices were still (strangely) accepted on their behalf by their brother and son respectively.

Though the report is strange in that regard, however since it is a fact that all the aforesaid respondents, other than respondents no. 1, 2 and 4, are proforma respondents, it does not affect the outcome of the case.

As regards respondents no. 2 to 4, they all having been served or deemed to have been served since they refused to accept notice, but are not represented, they are proceeded against *ex parte* even at the stage of disposal of the appeal.

6. In view of the fact that in paragraph 2 of the affidavit dated 19.10.2015, filed on behalf of the Gram Panchayat, it is stated that no construction is being raised upon the suit land and that concededly was the only prayer made by the appellant-plaintiff, this appeal is disposed of in terms of the said statement.

Consequently, the impugned judgment and decree of the learned lower appellate court, dated 06.03.2014, is set aside and the respondent-Gram Panchayat is held bound to its aforesaid statement.

Even so, also keeping in view the prayer made by the appellants-plaintiffs in their suit, to the effect that any construction made on the suit land, would only be in due course of law, it is made clear that any order passed by the competent authority for any appropriate usage of the

suit land, will not be invalidated by the judgment and decree now passed in this appeal and any such order, if challenged would be considered on its own merits.

7. A copy of this order be sent to the Administrator as also the Deputy Commissioner, U.T., Chandigarh, to ensure that no public land is misused in case of any connivance between the parties to the lis.

**(AMOL RATTAN SINGH)**  
**JUDGE**

November 17, 2016  
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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | No. |