

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6790 of 2017 (O&M)
Date of decision: 03.10.2017

Gram Panchayat of Village Arno

... Petitioner

Vs.

Charanjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Amarjit Kaur, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present civil revision petition under Article 227 of the Constitution of India, at the hands of defendant-Gram Panchayat, is directed against the order dated 04.07.2016 passed by the learned trial Court, whereby application moved by defendant No.3-petitioner Gram Panchayat under Order 7 Rule 11 of the Code of Civil Procedure ('CPC' for short) was dismissed.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order passed by the learned trial Court would show that no prejudice of any kind whatsoever has been caused to the petitioner, by passing the impugned order. It is so said because mutation No.81 dated 08.05.1964, which is subject matter of the suit for declaration filed by the plaintiffs-respondents, could not have been challenged before the revenue authorities at this belated stage. In such a situation, only the Civil Court will have the jurisdiction. Plaintiffs have also sought a direction to the

authorities to carry out the correction in the column of ownership as *shamlat deh Mudarja Sajra Nasab* in the jamabandi for the year 1952-53 and onwards. Under these circumstances, provisions of Order 7 Rule 11 CPC will not be attracted and the learned trial Court was well within its jurisdiction to pass the impugned order, which deserves to be upheld.

The learned trial Court rightly placed reliance on a judgment of the Hon'ble Supreme Court in para 2 of the impugned order. In view of the abovesaid peculiar facts and circumstances of the case, jurisdiction of the learned Civil Court cannot be said to be barred to entertain and decide the suit for declaration, mandatory injunction and permanent injunction filed by the plaintiffs. It prima facie seems, subject to confirmation from the relevant revenue record, which has not been placed on file of the instant revision petition, that the suit land was part of *bachat* land, which remained unutilized after having been utilized some land for common purposes of the village out of common pool created, after applying pro-rata cut on holdings of proprietors of the village during consolidation proceedings. In such a situation, the law laid down by two Full Benches of this Court in **Jai Singh Vs. State of Haryana, 2003 (2) RCR (Civil) 578** and **Suraj Bhan and another Vs. State of Haryana and others, 2017 (2) RCR (Civil) 934** will be a guiding factor for all concerned, including the learned trial Court.

Further, petitioner Gram Panchayat shall have every opportunity to lead its evidence, so as to prove its pleaded case. Under no circumstances, present one could have been said to be a case, wherein any different order could have been passed by invoking the provisions under Order 7 Rule 11 CPC. Under these circumstances, it can be safely concluded that the learned

trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order passed by the learned trial Court has been found based on sound reasons and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

03.10.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No