

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

**RSA No. 4376 of 2016 (O&M)
Date of Decision: 20.02.2017.**

Gian Chand

... Appellant

vs.

Gram Panchayat village Charason

... Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Alok Mittal, Advocate
for the appellant.**

ANITA CHAUDHRY, J.

Having failed before the Courts below, the plaintiff has approached this Court by way of instant regular second appeal.

The suit was filed by the plaintiff seeking injunction restraining the defendant Gram Panchayat from forcibly dispossessing him from the suit land. It was claimed by the plaintiff that he was in peaceful and uninterrupted possession of the suit land for the last more than 60 years and the defendant was bent upon dispossessing him therefrom.

The Gram Panchayat contested the suit and disputed the possession of the plaintiff over the suit land for the last more than 60 years. It took the stand that the plaintiff was a resident of State of Haryana and had no concern with the suit land. The Gram Panchayat pleaded that they were the owners of the suit land and used to lease it to the highest bidder every year. The money fetched was used for the

common purposes of the village.

The parties went to trial on the following issues:-

- “1. Whether the plaintiff is in established possession over the suit property?OPP*
- 2. Whether the defendants are trying to dispossess the plaintiff illegally and forcibly as alleged?OPP*
- 3. Whether the suit is not maintainable in present form?OPD.*
- 4. Whether the plaintiff has concealed the material facts from the court. If so, its effect?OPD*
- 5. Relief.”*

Both the parties adduced evidence.

On appraisal of the evidence on record, both the Courts below non-suited the plaintiff. Hence, the instant regular second appeal.

I have heard learned counsel for the appellant and have gone through the record carefully.

To substantiate the plea of being in continuous possession for the last more than 60 years, the plaintiff had failed to lead any evidence. No documentary evidence was produced by the plaintiff as to when he came into the possession of the suit land. Only the khasra girdawaris for the year 2008-09(Ex.P1 and Ex.P2) were produced where in a stray entry the plaintiff was shown as a tenant without payment of any rent under the Gram Panchayat. He failed to prove when he came into possession thereof. The plaintiff failed to show that he ever resided in village Charason, District Patiala where the suit land

was situated. His plea was found to be false as in the cross-examination, he admitted that he had been residing in village Gagarpur, Tehsil Cheeka, District Kaithal since birth and that he purchased the possessory rights of the suit land from Balwinder Singh in the year 1997. He failed to prove that Balwinder Singh had any right, title or interest in the suit land.

In an earlier round of litigation, the plaintiff had approached this Court by way of CWP No. 12839 of 2012 challenging the order vide which the Gram Panchayat was held to be the owner. This Court had dismissed the writ petition vide order dated 19.07.2012 and it was observed as under:-

“The petitioner lays challenge to orders holding that the Gram Panchayat is owner of the land, in dispute.

Counsel for the petitioner stated that the petitioner is owner and in possession before 1950. It is further submitted that though the Gram Panchayat has succeeded in proceedings under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the '1961 Act'). The petitioner is being dispossessed without resort to proceedings under section 7 of the 1961 Act.

We have heard counsel for the appellant and find no reason to issue the writ as prayed. The petitioner has been unable to prove his possession, prior to 1950 or at any time before coming into force of the 1961 Act. The land, in dispute, is admittedly, Shamilat Deh and belongs to the Gram Panchayat. As a consequence, we dismiss the writ petition.

The Gram Panchayat would be at liberty to take possession of the land, in dispute, in accordance with law.”

The ownership of the Gram Panchayat was upheld and it was granted liberty to proceed against the plaintiff in accordance with law. As a matter of fact, the defendant Gram Panchayat established on record that it had resorted to legal recourse and eviction order of the plaintiff was passed in a petition under Section 7 of the Village Common Lands (Regulation) Act, 1961. In this view of the matter, the plaintiff cannot derive any benefit from case laws **Rame Gowda (D) by LRs. Vs. Mr. Varadappa Naidu (D) by LRs & Anr. 2004(1) RCR(Civil) 519** and **Udey Singh Vs. Gram Panchayat Nangal Jat, 2010(6) RCR(Civil) 1027.**

I find no reason to interfere with the concurrent findings recorded by the Courts below which are neither illegal nor suffer from perversity. The findings are affirmed. Dismissed in limine.

20.02.2017

Jiten

Whether speaking/ reasoned

Whether reportable

(ANITA CHAUDHRY)

JUDGE

Yes/ No

Yes/ No