

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

201

CR No.2186 of 2018

Date of Decision: December 10, 2018

Gram Panchayat

.....Petitioner(s)

versus

Gaje Singh and others

.....Respondent(s)

201/2

CR No.2195 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Ram Mehar and others

.....Respondent(s)

201/3

CR No.2198 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Bir Singh and others

.....Respondent(s)

201/4

CR No.2206 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Rajesh @ Nanha and others

.....Respondent(s)

201/5

CR No.2222 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Jagbir and others

.....Respondent(s)

201/6

CR No.2225 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Jagdish and others

.....Respondent(s)

201/7

CR No.2229 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Prem and others

.....Respondent(s)

201/8

CR No.2232 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Naresh and others

.....Respondent(s)

201/9

CR No.2246 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Vinod and others

.....Respondent(s)

201/10

CR No.2331 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Rajesh and others

.....Respondent(s)

201/11

CR No.2891 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Ram Mehar and others

.....Respondent(s)

201/12

CR No.2899 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Raj Singh @ Rajender and others

.....Respondent(s)

201/13

CR No.2904 of 2018(O&M)

Gram Panchayat

.....Petitioner(s)

versus

Raj Kumar @ Raj Singh and others

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Mr. Parshant Sethi, Advocate &
Mr. Vivek Gupta, Advocate for the petitioner(s).

Mr. Sant Lal Barwala, Advocate for respondent No.1.

Mr. Ram Tilak Redhu, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has challenged the order dated 06.02.2018 passed by Additional Civil Judge (Senior Division) Hansi vide which the application filed by the petitioner/defendant No.1 for rejection of plaint was dismissed.

2. *Ex Parte* order under Section 7(1) of Punjab Village Common Land (Regulation) Act, 1961 (hereinafter referred to as “ the Act”) was passed against the plaintiff/ respondent No.1. Said order was challenged in the civil suit by alleging that the order of eviction was without notice to the plaintiff and was the result of evil design by Gram Panchayat in collusion with the then Minister. Para No.3 of the plaint reads as under:-

“.. That the possession of the plaintiff is hostile and to the knowledge of the Gram Panchayat and others since the day one. The Sarpanch of the Gram Panchayat is under the Influence of present Minister of Haryana and is having grudge against the plaintiff. The Sarpanch of the Gram Panchayat filed a totally false application No.44 VCL on 03.05.2017 against the plaintiff for eviction of the plaintiff from the above said land, on the basis of false demarcation report before the defendant No.2. The defendant No.2 under the pressure of the Minister of Haryana passed the

eviction order dated 21.06.2017 in hurry manner whereby he directed the plaintiff to evict him from the suit land within 30 days. The above said order dated 21.06.2017 is wrong, illegal, null and void, without jurisdiction, without authority, without notice to the plaintiff, without affording any opportunity of hearing, nonest, capricious, pass in hurry manner, against the law and facts and are not binding on the rights of the plaintiff and are liable to be set aside inter-alia on the following grounds:-.....”

3. Learned counsel for the petitioner submits that plaintiff/respondent No.1 has remedy of appeal against the order dated 21.06.2007 passed by Assistant Collector Ist Grade, Hansi and the jurisdiction of the civil suit is barred in terms of Section 13 of the Act.

4. It is settled principle of law that at the time of consideration of application under Order 7 Rule 11 CPC, only the averments made in the plaint are to be seen. In view of law laid down by Full Bench of this Court in ***State of Haryana Vs. Vinod Kumar 1986 (1) PLR 222*** and ***Gurbax Singh Vs. The Financial Commissioner & Another 1991 PLJ 192*** it has been settled that if the authority under the Special Statute Acts in violation of principle of natural justice, the Civil Court has all the jurisdiction under Section 9 CPC. At the same time, if the clever drafting of the plaint has created an illusion of a cause of action then the same should be nipped in the bud at the first hearing by examining the parties under Order 10 of CPC. The arguments raised by learned counsel for the petitioner in respect of due service of respondent No.1 can be ascertained on the first date of hearing

and the petitioner would be well within its right to ask for production of documents for ascertainment of relevant facts in respect of due service of the plaintiff or otherwise.

5. As per the law laid down by the Hon'ble Apex Court in ***Church of Christ Charitable Trust and Educational Charitable Society Vs. Ponnamman Educational Trust, 2012(8) SSC 706***, the petitioner can be relegated to the stage of order 10 CPC, where he can avail the remedy of ascertainment whether allegations in the pleadings can be admitted or denied with reference to some evidence for which remedy of production of documents can also be availed of.

6. In view of ratio of ***Church of Christ Charitable Trust*** case (supra), there is no scope for interference at this stage however, petitioner can be relegated to the remedy of Order 10 CPC in the given situation and thereafter, petitioner would be entitled to avail the legal remedy as available to him in accordance with law.

7. Disposed of.

December 10, 2018

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[RAJ MOHAN SINGH]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes/No