

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

**CR No.4631 of 2018
Date of Decision: 26.07.2018**

Jaswinder Singh

.... Petitioner

Versus

Gram Panchayat, Village Kalsa and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kuldeep Tiwari , Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 04.05.2018 passed by Civil Judge (Junior Division), Pehowa vide which application under Order 1 Rule 8 CPC read with Order 8 Rule 4 CPC was declined.

[2]. Plaintiffs filed a suit for permanent injunction and mandatory injunction on 21.01.2014 without moving any application under Order 1 Rule 8 CPC. Plaintiffs have pleaded that the Gram Panchayat is the owner of the suit land and plaintiffs are permanent residents and voters of the village. They have every right to protect and maintain the property belonging to the Gram Panchayat. In para No.9 of the plaint, plaintiffs have

also pleaded that plaintiff No.1 has already moved an application under Section 7(2) of The Punjab Village Common Lands (Regulation) Act, 1961 before the Assistant Collector, Ist Grade, Pehowa against the unauthorized occupants of the Panchayat land. The said application has been adjourned *sine die* on the basis of plea of title raised by the respondents therein.

[3]. Plaintiffs have already concluded their evidence. At the stage of leading of defendants' evidence, an application under Order 1 Rule 8 CPC was filed by the plaintiffs along with a list of proprietors. Even though, the application under Order 1 Rule 8 CPC can be allowed at any stage of litigation, but the plaintiffs are required to show the interest of the proprietary body of the village. Some of the villagers have already executed affidavits in favour of the defendants showing that they have no interest in the property. Plaintiffs have only attached a list of the proprietors without attaching any proof of their interest in the property. The intended effort of the plaintiffs is only to get *de novo* trial of the case under the garb of alleged compliance of Order 1 Rule 8 CPC. At the time of filing of the suit also, the plaintiffs were in the knowledge of the nature of the property, for which no claim was made before the civil Court.

[4]. Evidently, at such a stage, *de novo* trial will not be

justified while exercising the powers under Article 227 of the Constitution of India. Some of the persons mentioned in the list submitted by the plaintiffs have come forward, denying the assertions of the plaintiffs. They have also claimed that the suit of the plaintiffs itself is an act of settling the score with the persons in possession of the suit property. Evidently, plaintiff No.1 has also resorted to lawful proceedings in terms of Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961.

[5]. It will be open for the plaintiffs to avail their legal remedies arising therefrom. The filing of application under Order 1 Rule 8 CPC, even if, maintainable at any stage of litigation, still for the reasons recorded hereinabove, the indulgence cannot be granted while exercising powers of superintendence under Article 227 of the Constitution of India, particularly when the list attached by the plaintiffs is discrepant viz-a-viz the interest of the persons shown therein.

[6]. In view of above, this revision petition is dismissed.

July 26, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No