

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

RSA No.2779 of 2011 (O&M)

Date of Order:26.02.2018

Gurdev Singh

..Appellant

Versus

Gram Panchayat Pabala and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Singh, Advocate,
for the appellant.

Mr. S.S.Momi, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

Plaintiff no.1-appellant is in regular second appeal against the concurrent findings of fact arrived at by the courts below, dismissing the suit filed by the plaintiffs, primarily on the ground that the civil court does not have jurisdiction to entertain and adjudicate upon such dispute as the primary question which would be required to answer is whether the property vests with the Gram Panchayat or not?

Plaintiffs claim that this property is “Jumla Mushtarka Malkan” and is a “Bachat Land”(residuary land or un-reserved land) and, therefore, plaintiffs are entitled to protect their possession.

Both the courts have noticed that as per Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the 1961 Act'), the jurisdiction to decide ownership of the property exclusively vests with the authorities constituted under the Act of 1961. Both the courts have also noticed that under Section 13 of the 1961 Act, the jurisdiction of the civil court is barred.

Learned counsel for the appellant has argued that the present case is only for grant of injunction and the question whether the property vests with the Gram Panchayat or not would not be required to be adjudicated upon, hence, the judgments of the courts below are erroneous.

On the other hand , learned counsel for the Gram Panchayat has pleaded that the plaintiff has to first cross the hurdle of proving his ownership and only thereafter he is entitled to injunction. The authorities constituted under the 1961 Act have the exclusive jurisdiction to decide on that issue.

This court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the courts below and the record.

In the considered opinion of this Court, both the courts have rightly held that before holding that the plaintiffs are entitled to injunction, the courts would be required to adjudicate upon whether the property vests with the Gram Panchayat or not. In view of Section 13-A of the 1961 Act, the jurisdiction to decide whether the property vests with the Gram Panchayat or not exclusively vests with the authority nominated under the Act of 1961.

Still further, Section 13 of the Act bars the jurisdiction of the civil court. Hence, there is no ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

February 26, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No