

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

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**RSA-1040-2015 (O&M)
Date of Decision : 13.08.2018**

Subhash and others

..... Appellants

Versus

Gram Panchayat Bar Gurjar, Tehsil and District Gurgaon and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Chanderhas Yadav, Advocate
for the appellants.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit which the appellants had filed against the Gram Panchayat and the District Collector (among others) claiming a declaration that they had become owners of the land in dispute.

The case of the appellants was that the land had been given to their ancestors as Bhondedars and they have been in possession since the origin of the village and since they continued in possession till such time as the coming into force of the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (vesting of proprietary rights) Act, 2010. The respondent-Gram Panchayat on the other hand had denied this claim. Both the courts below having dismissed the suit, as mentioned above, the appellants are before this Court.

The crucial legal point on the basis of which the lower appellate court has held against the appellants is based on the very concept of Bhondedar. The lower appellate court has relied upon the judgment of this Court in the matter of ***Lajja Ram vs. Rati Chand, 2009 (4) RCR (Civil) 598***. That judgment in turn relied upon a previous judgment of this Court in the matter of ***Mamala and others vs. ISA and others, 1983 Punjab Law Journal 231***. In that judgment this Court had held as follows:-

“It is very common for an individual proprietor, and still more so for a whole village community to set apart a small piece of land, usually two or three Bighas, to be held rent free for the benefit of some temple, mosque or shrine, or to give a piece of land, on similar favourable terms to a pandit or other person of a religious order. Such a grant is called a dohli, and the holder a dohlidar. So long as the purposes for which the grant was made are carried out, it cannot be resumed, but should the holder grossly fail to carry out the duties of his office, the proprietors can eject him and put in some one else under a like tenure.

The bhonda is like the dohli a grant of a few Bighas of land rent-free. The Principal difference is that, while the service for which the dohli is granted is something directly connected with religion, the bhonda is given for some secular service, such as the duties of the village watchman (chowkidar) or messenger (bulahar). The bhondedar may be ejected on failure of fulfil the conditions of his tenure and perhaps in some cases at the will of the proprietors. It is simply an old-fashioned mode of paying for services.’ From the above passage, it is clear that Bhondadari tenure is not necessarily heritable, because in some cases it can be terminated at will. Inference of mine findings support from Ex.D.3 which is a copy of sharat wazib-ul-araz relating to

this village. It is mentioned in the entry that appointment and removal of the Bhondedar rested with the proprietors of the village."

While in the later judgment it was held as follows:-

"In terms of the aforesaid judgments, it transpires that defendant No.1-Bhondedar could continue in possession of land in dispute, till such time, he carried out the duties of his office. There are no other terms of Bhondedar produced on record. Therefore, once he has failed to discharge the duties attached to his office, he ceases to be Bhondedar and the property reverse back to the proprietors. Thus, the plaintiffs, who are proprietors have been rightly found entitled to impunge the decree suffered by defendant No.1 and subsequent sale deeds executed by defendant No.1."

The lower appellate court noticed that the appellant No.1 had appeared as PW-1 and he had admitted that they were not giving any services for the last 20-25 years and in the circumstances held that mere possession would not entitle them to claim Bhondedari rights.

Counsel for the appellants has taken me through the cross-examination of PW-1 and I find that he had stated in unequivocal terms as has been noticed by the lower appellate court.

In the circumstances, no fault can be found with the judgments of the courts below. Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 13, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No