

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

122

RSA-4612-2016 (O & M)
Date of Decision:23.10.2018

Girraj and another

...Appellants

Versus

Gram Panchayat Village Amarpur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manoj Kumar Sood, Advocate
for the appellants.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the Courts below.

Apart from the reason given by learned Courts below, once the Courts have found that the plaintiffs have failed to prove their possession, the suit filed by the plaintiffs for permanent injunction will not be maintainable.

Learned counsel for the appellants has submitted that he has also prayed for decree of mandatory injunction. Decree for mandatory injunction can only be granted once it is established that the plaintiffs are entitled to the possession and they have any right, title or interest in the property. Such adjudication can only be made by the Competent Authority under the Punjab Village Common Lands (Regulation) Act, 1961 ('Act' – for short).

Jurisdiction of the Civil Court to adjudicate upon whether a particular property is *shamlat deh* or not is specifically barred. Reference in

this regard can be made to Section 13 and Section 13-A of the Act.

In view thereof, apart from the reasons recorded by both the Courts below, the suit filed by the plaintiff for mandatory injunction is found to be not maintainable.

In view thereof, there is no ground to interfere.

Regular second appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

23.10.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No