

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

Date of decision : October 08, 2018

1. RSA No.401 of 2015 (O&M)

The Commissioner, Municipal Corporation Limited, Faridabad and
another

v.

Rishi Pal and others

2. RSA No.3735 of 2014 (O&M)

Hari Kishan & ors

vs

Rishi Pal and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Amrita Nagpal, Advocate
for the appellants in RSA No.3735 of 2014.

Mr. Arvind Seth, Advocate
for the appellants in RSA No.401 of 2015.

Mr. SS Bhinder, Advocate
for respondents No.1 to 5.

None for respondents No.6 to 9 in RSA No.401 of 2015.

Mr. Sudeep Mahajan, Advocate
for respondents No.6 & 7 in RSA No.3735 of 2014.

Ajay Tewari, J (Oral)

This order shall dispose of the aforesaid Appeals since they arise out of the judgments and decrees of the Courts below decreeing a suit for permanent injunction filed by the private respondents. Facts are being extracted from RSA No.401 of 2015.

The case of the plaintiffs was that the land was shamlat deh of village Jharsaintly and the possession was with the persons of the potter community and right had been given to extract earth from the land for the purpose of making earthenware. The case of the appellant-Municipal

Corporation was that since the land was a part of shamlat deh, with the inclusion of village Jharsaintly in Municipal Corporation Faridabad, the latter had become owner thereof. The case of respondents No.6 to 9 (appellants in RSA No.3735 of 2014) on the other hand was that they were owners of the land on the basis of some ex-parte decree (to which, however, respondents No.1 to 5 were not parties). Both the Courts below held that firstly the private respondents were not bound by the earlier decree in favour of respondents No.6 to 9, and secondly the respondents were not able to prove that the land had not been specifically reserved for the use of the potter community and was shamlat deh, and consequently decreed the suit.

Counsel for respondents No.6 to 9 (appellants in RSA No.3735 of 2014) has not been able to satisfy the conscience of this Court as to how they had become the owners. As regards the Municipal Corporation, it has been argued that it is only pressing the point that once the land of village Jharsaintly vests in Municipal Corporation, Faridabad, the shamlat land would vest in the Municipal Corporation, Faridabad. There is no dispute with this proposition of law. In these circumstances, RSA No.3735 of 2014 is dismissed, while RSA No.401 of 2015 is disposed of with the observation that the Municipal Corporation Faridabad being the successor of Gram Panchayat of village Jharsaintly can exercise those rights which the Gram Panchayat could have exercised.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

October 08, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No

