

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

RSA No.1317 of 2017

Date of Decision.14.03.2018

Gram Panchayat Marupur

.....Appellant

Vs

Shyam Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.K. Khubbar, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)
C.M. No.3140-C of 2017

For the reasons stated in the application, delay of 86 days in re-filing the appeal is condoned.

Application is allowed.

C.M. No.3142-C of 2017

For the reasons stated in the application, delay of 89 days in filing the appeal is condoned.

Application is allowed.

RSA No.1317 of 2017

The appellant-defendant/Gram Panchayat is aggrieved against the judgment and decree dated 4.11.2014 whereby the suit of the respondent-plaintiff claiming declaration for waiving 50% lease money pertaining to the year 2010-2011 owing to the damage of the crop and the compensation qua damaged crops for kharif 2010 along with interest @6% had been decreed and the judgment and decree dated 14.10.2015 whereby the appeal bearing No.570 of 2014 preferred against the aforementioned

judgment and decree dated 4.11.2014 has also been dismissed.

The respondent-plaintiff instituted the suit claiming the aforementioned relief on the premise that he had taken land measuring 56 kanals 15 marlas of land belonging to the Panchayat on lease for a period of two years. In lieu thereof, he deposited the lease amount for one year and also some advance amount for next year. He had planted paddy crop in the year 2010 but due to natural calamity of flood, the crop was damaged to the extent of 100%. The aforementioned damage was recorded in the report dated 18.11.2010 of the Halqa Patwari. A special girdawari was conducted regarding 100% damage of crop. The Financial Commissioner and Principal Secretary to Government of Haryana vide order dated 4.8.2010 waived of lease money to the extent of 50% on shamlat land on account of loss due to flood during the year 2010-2011. The plaintiff submitted an application to the BDPO, Radaur on 29.10.2009 for waiving of 50% lease money and payment of compensation and thereafter also moved application to DDPO with copy to Deputy Commissioner but despite that no action had been taken, necessitating the respondent-plaintiff to institute the suit.

On notice, defendant No.1 and 2 appeared but later proceeded against ex parte whereas defendant No.3 filed the written statement by taking customary objection with regard to maintainability, locus standi, cause of action, much less, concealment of facts. On merits, it was denied that the plaintiff sown paddy crop on any portion of the land and any loss had been caused. It was submitted that there were two conditions to be complied with for any person to claim the compensation i.e. (i) crop loss due to flood should be 75% or more and (ii) the concerned gram panchayat passes a resolution to extend such benefits. However, the Gram Panchayat had not passed the resolution, therefore, the plaintiff was not entitled to

compensation or waiving of 50% of the lease money.

Since the parties were at variance, the trial Court had framed the following issues:-

- “1. Whether the plaintiff is entitled for the relief of declaration as prayed for? OPP*
- 2. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD*
- 3. Whether suit of plaintiff is not maintainable? OPD*
- 4. Relief.”*

In order prove his case, the plaintiff examined PW1 to PW3 and tendered into evidence following documents:-

Mark B	Report of Patwari
Mark C	Report of Tehsildar
Ex.P1	Girdawari
Ex.P2	Notice
Ex.P3 and P4	Acknowledgement
Ex.PB	Letter

On the other hand, defendants examined DW1 and DW2 and tendered into evidence following documents:-

Ex.D1	Resolution
Ex.D2	Conditions of Panchayat
Ex.D3 to Ex.D13	Copy of auction register
Ex.D14	Girdawari.”

On the preponderance of the documentary evidence, the trial Court decreed the suit and the appeal preferred against the same as noticed above was also dismissed.

appellants submitted that both the Courts below committed illegality and perversity in appreciating the fact that conditions which were required to be followed regarding damage of the crop to the extent of 75% and passing of the resolution by the Gram Panchayat had not been complied with, in essence, the Gram Panchayat had not passed the resolution. Certain documents regarding information received under the RTI have also been brought on record with regard to assessment of compensation but the fact is that respondent-plaintiff got prepared false khasra girdawari to obtain wrongful gain, for which an enquiry was initiated against the concerned Patwari, thus, urges this Court for setting aside the judgments and decrees under challenge.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submission of Mr. Khubbar. The two conditions which were required to be complied with for assessment of compensation are reproduced herein:-

- “1. The crop loss due to flood should be 75% or more as brought out in special girdawari conducted by revenue department and land cannot be utilized during the balance kharif season for sowing of crops.*
- 2. The concerned Gram Panchayat passes a resolution to extend such benefits.”*

It is not a matter that 100% damage was done to the crop. There is damage to the crop which has been proved through the testimony of Patwari and jamabandi Ex.P1 reflecting the damage. The only controversy involved is whether the Gram Panchayat had passed the resolution to the effect that respondent-plaintiff or other farmers were

entitled to such compensation, though the answer of the same was in negative but the Courts below had drawn an inference that merely saying that it had not passed the resolution was not a sufficient requirement of law as it had to bring on record material to substantiate the same. The Gram Panchayat cannot act like a shylock at the whims and fancies of executive body, much less, Sarpanch, who had not passed the resolution, which, in my view, was in defiance to the directions of the Haryana Government for the purpose of granting compensation to the affected farmers.

In view of the aforementioned, the findings rendered by the Courts below are perfectly legal and justified as the same are based upon correct appreciation of fact and law, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal stands dismissed.

(AMIT RAWAL)
JUDGE

March 14, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No