

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.1598 of 2017
Date of decision:02.04.2018

Municipal Council

... Appellant

Vs.

Ronak Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. J.S.Toor, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-Municipal Council is in Regular Second Appeal against the concurrent findings of facts and law, whereby, suit of the respondent-plaintiff seeking declaration for correcting the revenue record from the expression '*gair marusi*' to owner, was decreed by both the Courts below.

The respondent-plaintiff instituted the suit on the premise that vide sale deed dated 27.07.1982, Ex.P5, he purchased the land in dispute, though the revenue entry could have been changed by recording him as owner but it continued to be recorded as '*gair marusi*'. On the basis of incorrect entry, the erstwhile Gram Panchayat initiated the proceedings under Section 7 of the Punjab Village Common Land Act, 1961 (in short "1961 Act") as applicable to Punjab which culminated into eviction order dated 04.12.1989. The aforementioned proceedings were challenged on the

premise that the proceeding under Section 7 could not have been initiated which ultimately was set aside, vide judgment and decree dated 21.11.1997 rendered by the Lower Appellate Court.

The aforementioned suit was contested by the appellant-defendant by raising the various preliminary objections including the maintainability of the suit under Section 13 of 1961 Act. It was averred that the land belonged to Gram Panchayat, therefore, could not have been sold in the manner and mode as indicated above and thus, entry in the revenue record was correct. Even the decree was nonest in the eyes of law. Both the parties led the evidence and the trial Court on the basis of the evidence decreed the suit on the ground that the plaintiff had a decree dated 21.11.1997 in his favour and the appeal laid before the Lower Appellate Court also met with the same fate.

Mr. J.S.Toor, learned counsel appearing on behalf of the appellant-defendant submitted that decree was nonest in the eyes of law, for, the proceedings initiated under Section 7 of 1961 Act, could not have been set aside in the manner and mode, though it had attained finality and being nullity could not have been looked into by the Courts below in favour of the respondent-plaintiff. Even the suit land could not have been sold, vide sale deed, *ibid*. All the land belonging to Gram Panchayat is shamlat and therefore, deemed to have been vested in the Municipal Committee, thus, urged this Court for setting aside the findings under challenge as there is gross illegality and perversity.

I have heard the learned counsel for the appellant-defendant, appraised the judgments and decrees of the Courts below.

The respondent-plaintiff's case was based upon the registered document, i.e. sale deed dated 27.07.1982, Ex.P5, is still holding the field. For setting aside the aforementioned document, remedy is to seek declaration in a competent Court of Law under Section 9 CPC, for, there is no limitation for claiming a title and challenging the said document.

Be that as it may, fact of the matter is that even if decree dated 21.11.1997 has to be treated as nullity, then sale deed is holding the field. On that account, the Court below decreed the suit seeking correction of the revenue record. The Municipal Committee was not prevented to claim the right in the property in view of the vesting provisions of law.

In view of the aforementioned observations of mine, I do not find any illegality and perversity in the findings of the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

April 02, 2018
savita

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