

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

RSA No. 995 of 2014 (O&M)
Date of decision : April 20, 2018

Hariya and others

..... Appellants

v.

Hawa Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Rajesh Goel, Advocate
for the appellants.

Mr. KS Malik, Advocate
for respondents No.1 to 5.

Mr. Abhinav Sood, Advocate
for Mr. Vikram Singh, Advocate
for respondent No.6.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit for permanent injunction and mandatory injunction filed by respondents No.1 to 5. On 20.2.2014, the following order was passed :-

“CM-2293-C-2014

Applicants seek condonation of delay of 8 days in filing the appeal.

Application is supported by an affidavit.

After hearing the learned counsel for the applicants, the application is allowed for the reasons stated therein. Delay of 8 days in filing the appeal is condoned.

CM stands disposed of.
CM-2294-C-2014 and RSA-995-2014

Learned counsel for the appellants-defendants, inter alia, contends that claim of the plaintiffs was based on a resolution No.3 passed in the year 2006 by the Gram Panchayat vide Ex.PW2/B, whereas the claim of appellants-defendants was based on resolution No.1 dated 31.1.1987 Ex.PW2/A. He further submits that although it was not pleaded by either side but it was a matter of record that none of the above-said resolutions were approved by the competent authority of the State Government. In the absence of approval by the competent authority, neither the plaintiffs nor defendants would become owners of the respective pieces of land regarding which the above-said two resolutions were passed. The actual owner of the suit land is the Gram Panchayat which alone could have sought possession from the defendants-appellants and that too by due process of law. Since the plaintiffs were not owners, their suit for permanent injunction and mandatory injunction was not even maintainable.

Notice of motion for 14.7.2014.

In the meantime, execution of the impugned decree shall remain stayed.”

Today, counsel for respondents No.1 to 5 points out that the whole argument which was raised in the aforesaid order was on a wrong premise since at the time when the land was earmarked for the Dhanak Chaupal, there was no requirement for sanction by any body. Further, he points out that even as per the case of the Panchayat, the present appellants have tried to usurp the land which was given for Chaupals of the Balmiks and Ramdasias and it is only in these circumstances that the Courts below have decreed the suit. He has further argued that both the Courts below have found as a fact that the land which was allotted to the Balmik community had been usurped by the appellants but have refrained from passing any decree with respect to that encroachment.

Counsel for the appellants has not been able to show how the argument quoted above now survives.

In the circumstances, this appeal is dismissed.

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

April 20, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No