

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

RSA No.4838 of 2002 (O&M)
Date of decision : 21.01.2019

Gram Panchayat Village Attari, Tehsil Muktsar through its Sarpanch

...Appellant

Versus

Harpal Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.S. Sidhu, Advocate for the appellant.

Ms. Kashika Kaur, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

CM No.9479-C of 2004

For the reasons stated in the application, which is duly supported by an affidavit, legal heirs of respondent No.5 as mentioned in para 2 of the application are ordered to be brought on record for the purpose of prosecuting the present appeal.

Application is allowed.

Main case

Defendant-appellant (Gram Panchayat) is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

Learned counsel appearing for the appellant-Gram Panchayat has stated that the Civil Court has no jurisdiction in view of Section 11 read with Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable to the State of Punjab. He has submitted that as per the revenue record, the ownership is of Gram Panchayat.

On the other hand, learned counsel for the respondents has submitted that the property belongs to *Mushtarka Malkan* and, therefore, the Civil Court has jurisdiction.

Learned counsel for the appellant has produced a copy of jamabandi for the year 1981-82, in which Gram Panchayat is recorded as owner. Of course, in the cultivation column, *Maqbooja Malkan* has been recorded and quality of the land is *banjar jadid*.

Since, Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as an “Act of 1961”) provides for a forum to decide such disputes and Section 13 of Act of 1961 bars the jurisdiction of the Civil Court, therefore, it would be more appropriate to relegate the parties to the Court of competent jurisdiction.

Learned counsel for the appellant has submitted that even the Collector does not have the jurisdiction under Section 42-A of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Amendment Act, 2007.

Since, the aforesaid issue has not been dealt with by the Courts below, therefore, it would not be appropriate for this Court to give a final opinion. If any of the party approaches the Collector for

adjudication of the dispute, the Collector would decide the same in accordance with law without being influenced by the order passed by this Court or by the Civil Court.

In view of what has been observed above, the present Regular Second Appeal is disposed of.

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

21.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No