

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

**CR No.2695 of 2018(O&M)
Date of Decision-15.02.2019**

Gurdial Singh through his LRs ... Petitioners

Versus

Additional Director, Panchayat and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.S. Dhull, Advocate for the petitioners.

Mr. Arun Kaundal, DAG, Punjab.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred against the order dated 07.02.2017 passed by Civil Judge (Junior Division), Patiala vide which the application filed by the defendant under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint was accepted and order dated 09.01.2018 passed by Additional District Judge, Patiala whereby the appeal filed by the LRs of the plaintiff was dismissed.

[2]. Plaintiffs filed a suit for declaration seeking correction of entries in the *jamabandi* where he was shown to be in forcible possession without payment of rent i.e. entries were sought to be expunged. Plaintiffs claimed that defendants No.1 to 3 have no right, title or interest in the suit land and they were also sought to

be restrained from interfering in the peaceful possession of the plaintiffs.

[3]. The application filed by the defendant under Order 7 Rule 11 read with Section 151 CPC was allowed on the ground that the suit is not maintainable being barred under Sections 12 and 13 of the Punjab Village Common Lands (Regulations) Act, 1961.

[4]. It is a settled principle of law that for consideration of application under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. Vesting of land as *shamlat deh* would be a moot point during trial. When *lis* is between private person and the Gram Panchayat in respect of vesting of land as *shamlat deh*, then jurisdiction of the Civil Court is barred.

[5]. In the instant case, challenge is to the entries in the revenue record after preparation of *jamabandi*. Such correction can be done by the Civil Court because after preparation of *jamabandi*, it is the Civil Court in terms of Sections 36 and 37 of the Punjab Land Revenue Act which can correct the entries in the revenue record. The decision by the revenue authorities in hierarchy in respect of vesting of land would be a different issue as compared to the declaration qua correction of revenue record after preparation of *jamabandi*.

[6]. The ratio laid down in **M/s Rathore Promoters and Developers Pvt. Ltd. and another Vs. State of Haryana and**

others, 2017(4) RCR (Civil) 995 would give rise to a triable issue before the Civil Court and in such eventuality, Civil Court jurisdiction cannot be ousted. However, nothing expressed hereinabove shall be construed to be an opinion on merits of the case.

[7]. In view of above, this revision petition is allowed. Impugned orders are hereby set aside. Both the parties are directed to appear before the trial Court on 11.03.2019. Thereafter, trial Court shall proceed to decide the suit in accordance with law.

(RAJ MOHAN SINGH)
JUDGE

15.02.2019

Prince

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No