

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

**RSA No.1279 of 2002 (O&M)
Date of Order: 10.01.2019.**

Om Parkash

..Appellant

Versus

Parbhati Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Yadav, Advocate
for the appellant.

Mr. Shubham Kaushik, Advocate, for
Mr. Vindo S. Bhardwaj, Advocate
for the respondent

Mr. S.K.Sharma, Advocate,
for respondent nos.2,3,5,7,12,14,15 and 17

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

In this case, plaintiff claims that he is owner in possession of the land in dispute being member of the proprietary body of the Patti. Gram Panchayat was also impleaded as party which took a stand that the land vests in the Gram Panchayat as it is open and vacant land.

This court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the courts below.

In the considered opinion of this court, basic and fundamental question which requires determination is “whether the plaintiff is owner or

the land vests with the Gram Panchayat?

In this respect, jurisdiction of the civil court is barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (As applicable to the State of Haryana)(hereinafter referred to as 'the Act'). Under Section 13-A of the Act parties have been provided with forum to get their rights adjudicated from the court of Collector. Section 13 and 13-B of the Act are extracted as under:---

13. Bar of Jurisdiction.--No civil court shall have jurisdiction.-

- (a) to entertain or adjudicate upon any question whether-*
- (i) any land or other immovable property is or is not shamilat deh ;*
- (ii) any land or other immovable property or any right, title or interest in such land or other immovable property vests or does not vest in a panchayat under his Act ;*
- b) in respect of any matter which any revenue court, officer or authority is empowered by or under this Act to determine ; or*
- (c) to question the legality of any action taken or matter decided by any revenue court, officer or authority empowered to do so under this Act.]*

13A.Adjudication *(1) Any person or in the case of a panchayat, either the panchayat or its Gram Sachiv, the concerned Block Development and Panchayat Officer, Social Education and Panchayat Officer or any other officer duly authorised by the State Government in this behalf, claiming right, title or interest in any land or other immovable property vested or deemed to have been*

vested in the panchayat under this Act, may file a suit for adjudication, whether such land or other immovable property is shamilat deh or not and whether any land or other immovable property or any right, title or interest therein vests or does not vest in a panchayat under this Act, in the court of the Collector, having jurisdiction in the area wherein such land or other immovable property is situated :

Provided that no suit shall lie under this section in respect of the land or other immovable property, which is or has been the subject matter of the proceedings under section 7 of this Act under which the question of title has been raised and decided or under adjudication.

(2) The procedure for deciding [he suits under subsection (1) shall be the same as laid down in the Code of Civil Procedure, 1908 (Act 5 of 1908).”

Keeping in view the unambiguous language of Sections 13 and 13-A of the Act, the jurisdiction of the court to examine whether property is “Shamilat Deh” or not is completely barred. As per the Scheme of the Act, the jurisdiction exclusively vests with the court of a Collector constituted under the Act. Such being the position, the appellant would be at liberty to file a suit under Section 13-A of the Act in a court of Collector for adjudicating upon his rights. If such a suit is filed, the collector would decide the case independently without being influenced by the judgments passed by the courts below or any order passed under Section 7 of the Act of 1961.

Appeal stands disposed of accordingly.

January 10, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No