

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No. 4646 of 2017

Date of Decision: 18.03.2019

Gram Panchayat Kup Kalan and another

.....Petitioners

Vs.

Deen Mohd. @ Haji Deen Mohd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. S.S. Salar, Advocate,  
for the petitioners.

Mr. Gulam Nabi Malik, Advocate,  
for respondent no. 1.

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**AMOL RATTAN SINGH, J. (ORAL)**

By this petition, the petitioners challenge the order of the learned Civil Judge (Junior Division), Malerkotla, dated 20.05.2017, by which the application filed by the petitioners under Order VII Rule 11 CPC, seeking rejection of the plaint, has been dismissed.

As per the said application, the petitioners had contended that the suit land being '*Shamlat Deh*' as defined in Section 2 (g) of the Punjab Village Common Lands (Regulation) Act, 1961, the jurisdiction of the Civil Court *qua* any issue arising out of such land was barred in terms of Section 13 of the said Act.

The learned trial Court, on the other hand, has held that there are arguable points on both sides and therefore, it would be in the interest of justice, that the parties be directed to lead evidence, so that the matter can be decided on merits, including on the issue of jurisdiction.

That order having been challenged, notice of motion was issued in this petition on 19.07.2017, with proceedings before the trial Court stayed at that stage, and the matter having been adjourned thereafter from time to time.

On 10.08.2018, the following order had been passed by this Court:-

*“Learned counsel for the petitioners having pointed out that the suit land was already subject matter of proceedings under the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948, with those proceedings having culminated by way of an order passed by the Division Bench of this Court in CWP-8935-2009 decided on 06.07.2012 (a copy of which is annexed as Annexure P2), he submits that the suit land is actually to be treated as vesting in the Gram Panchayat and therefore a civil suit seeking declaration of ownership of that land would be barred in terms of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961.*

*Learned counsel for respondent no.1 seeks time to argue the matter.*

*Adjourned to 24.08.2018.*

*Interim order to continue.”*

Today, Mr. Malik, appears for respondent no. 1, the remaining respondents not having put in appearance, with respondents no. 2 and 5 shown to be served of notice issued to them and respondents no. 3 and 4 not found to be residing at the given address.

Be that as it may, Mr. Malik submits that respondent no. 1 being a *bona fide* purchaser of the suit land from one Darbara Singh, vide a registered sale deed executed on 04.02.2004 and he not being a party to the proceedings before this Court in CWP No. 8935 of 2009 (decided on 06.07.2012), the bar contained in Section 13 of the Act of 1961, would not be applicable, especially as the

petitioners duly inspected the revenue record prior to purchase, with that record reflecting Darbara Singh, i.e. the vendor, to be owner in possession of the suit land.

Without making any comment on the correctness of that averment, as to whether respondent no. 1 is actually a *bona fide* purchaser or not and whether even if he is, the jurisdiction of the Civil Court would remain ousted, this petition is disposed of with a direction to the trial Court to treat the issue of jurisdiction of that Court to be a preliminary issue which is to be decided at the outset, within a period of three months from today.

**March 18, 2019**  
nitin/dinesh

**(AMOL RATTAN SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No.