

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

**RSA-3762-1997
Decided on : 13.12.2019**

Subhash Chander and others

... Appellant(s)

Versus

Municipal Committee, Naraingarh and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Kulvir Narwal, Advocate
for the appellant(s).

Mr. Inderjeet Singh, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

The appellants filed the suit for permanent injunction for restraining the defendants/respondents from carrying out any type of construction over the land bearing Khasra No. 330, 331, 346, 34//7/1, 9/1, 13/3, 1/6, 14/6, 2/1, 15/1, 2/2, 8/3, 321, 34//8/2, as given in the Jamabandi for the year 1977-78, situated in Naraingarh, Tehsil Naraingarh, Distt. Ambala.

The said suit was dismissed by the trial Court in its entirety and decree sheet was drawn up accordingly. As noticed, in the judgment of the trial Court, it was brought to the notice of this Court that during the pendency of the trial, a statement was made on behalf of defendant No.2 – Mahila D.A.V. College, Naraingarh, through its Manager that they would have no objection, if the suit *qua* Khasra No. 34//8/2 was decreed in favour of the appellants-plaintiffs. The Ld. First Appellate Court also upheld the

judgment & decree of the trial Court.

Counsel for the appellants has restricted his claim only *qua* Khasra No. 34//8/2. He has further pointed out that both the Courts below had noticed the aforementioned facts while deciding issue No.1, but dismissed the suit in its entirety overlooking the fact that issue No.1 had been decided in favour of the appellants-plaintiffs on a concession made by the defendants themselves.

Counsel for the appellants further argued that the operative part of both the judgments is therefore flawed resulting in drawing up decrees which carried the above error.

Counsel for respondent No.2 on the other hand submitted that the relief which is being sought by the appellants-plaintiffs has been rendered infructuous in view of the fact that a school building is now in existence at the said khasra number i.e. 34//8/2. Besides this, it has also been urged that when the construction was being carried out, no objection was raised by the appellants and ever since the filing of the instant appeal in the year 1997, no application for stay was also moved, which in turn shows that the appellants-plaintiffs were never in possession of the said khasra number.

A perusal of the record reveals that as per Ex.D1 i.e. copy of mutation and Ex. D2 i.e. copy of resolution of the Municipal Committee, Naraingarh, the land in question vested in the Municipal Committee, after the abolition of the Gram Panchayat. Since the land in question was recorded as *Shamlat Deh*, vesting in Gram Panchayat, the Civil Court had no jurisdiction to decide the matter in view of the provisions of Section 13 of the Punjab Village Common Lands Regulation Act, 1961, as applicable

to the State of Haryana.

Therefore, without going into much details and the contentions of the parties, the instant appeal and consequently the suit of the plaintiff is dismissed leaving the parties to avail of an appropriate remedy.

(MANJARI NEHRU KAUL)
JUDGE

December 13, 2019

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*