

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

358

RSA No.4048 of 2001 (O&M)

Date of decision: 15.01.2019

Gram Panchayat Bhurthal Jat

..... Appellant

Versus

Gopi Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergill, Advocate
for the appellant.

Mr. M.L. Sarin, Sr. Advocate with
Mr. Ritesh Aggarwal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant-Gram Panchayat is in the appeal against the judgment passed by the learned First Appellate Court.

The ultimate question which requires determination is “whether the property in dispute vest in the Gram Panchayat or not.”

In fact, issue No.2 as framed by the Civil Court is “whether the property in dispute vest in Gram Panchayat”.

The present plaintiff-respondent No.1 filed a suit for permanent injunction. Gram Panchayat filed an application for being impleaded as a party which was allowed and Gram Panchayat was added as defendant.

Learned First Appellate Court has granted a limited relief to the plaintiff by recording that the plaintiff shall not be dispossessed except

in due course of law.

This Court has heard learned senior counsel for the parties at length.

In the considered view of this Court, adjudication on the question that whether the property vest in Gram Panchayat or not, the jurisdiction exclusively vest under the Court of Collector under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961. The jurisdiction of the Civil Court to decide such question is barred under Section 13 of the Act of 1961. Section 13 and 13-A of the Act of 1961 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 shamlat 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 this 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.

13-A. 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 authorized 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 shamlat 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 the suits under sub-section (1) shall be the same as laid down in the Code of Civil Procedure, 1908 (5 of 1908).”

Keeping in view the aforesaid provisions, the dispute in the present case can be resolved by directing the Gram Panchayat to file a suit under Section 13-A of the Act before the Court of Collector in the concerned District and once the suit is filed, the Collector is mandated to decide the same, within a period of one year. By adopting this course, the entire dispute would stand solved.

Till then, the parties are directed to maintain status-quo.

The Collector would decide the suit without being influenced by the findings arrived at by the Courts below.

With these observations, the appeal is disposed of.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

(ANIL KSHETARPAL)
JUDGE

15.01.2019
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No