

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

RSA No.2603 of 2014 (O&M)
Date of decision : 14.02.2019

Rati Ram (deceased) through legal heirs

...Appellant

Versus

Gram Panchayat of Village Dehlaka and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Adarsh Jain, Advocate for the appellant(s).

ANIL KSHETARPAL, J. (ORAL)

In the present case, plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below dismissing his suit for declaration claiming that he is in occupation of the land as occupancy tenant and, therefore, he has become owner by virtue of operation of Section 3 of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952.

It is the case of the plaintiff that initially the property was recorded as *shamlat deh* which on introduction of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter to be referred as “the Act of 1961”) came to be mutated in favour of Gram Panchayat.

Gram Panchayat has contested the suit and pleaded that

neither the plaintiff is in possession of the property nor he has become owner.

This Court has heard learned counsel for the appellant(s) at length and with his able assistance gone through the judgments passed by both the Courts below and the record.

In the considered view of this Court, in view of provision of Sections 13 and 13-A of the Act of 1961, only the Court of Collector of the concerned District has the jurisdiction to try and decide such dispute “whether a particular property is *shamlat deh* or not”. Jurisdiction to decide such dispute exclusively vests with the Court of Collector constituted under the Act of 1961. Sections 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.]

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

The suit filed by plaintiff is against Gram Panchayat and it is his pleadings that initially the property was recorded as *shamlat deh* which was later on recorded in the ownership of Gram Panchayat. Such being the position, the jurisdiction of the Civil Court to entertain such suit is clearly barred.

In view thereof, the appellant(s) is relegated to the remedy of proceedings under the Act of 1961. Since, the appeal is being decided

only on point that the Civil Court does not have jurisdiction, therefore, the Collector would be entitled to decide the suit, if any, filed before it without being influenced by the findings arrived at by the Courts below or this Court.

In view of what has been observed above, the present Regular Second Appeal is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

14.02.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No