

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

RSA No.5357 of 2015 (O&M)

Date of decision: 27.03.2019

Akhtari

..... Appellant

Versus

Ashak and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Kamlesh, Advocate, for
Mr. Parminder Singh, Advocate
for the appellant.

Mr. Akshay Jindal, Advocate
for respondents No.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

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

As per revenue record, the property is Shamlat (reserved for common purposes), although, it was claimed by the plaintiff that the property was in possession of Rakamdeen who had sold the property to the plaintiff and during the pendency of the suit, some sort of compromise was arrived at, however, both the Courts taking note of the fact that Rakamdeen is not proved to be owner, dismissed the suit.

The jurisdiction of the Civil Court is barred as per the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. Section 13 bars the jurisdiction of the Civil Court whereas Section 13-A provides for a forum to decide such questions including the question that

whether the property is or is not Shamlat deh and vest with the Gram Panchayat or not. 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).”

In view thereof, apart from the reasons which have been recorded by the Courts below, the jurisdiction of the Civil Court stands excluded. It will be open for the parties to initiate proceedings under Section 13-A of the Act of 1961 and establish before the competent Court of jurisdiction that the property is not Shamlat.

In view thereof, there is no ground to interfere with the findings of fact arrived at by the Courts below.

Appeal is dismissed.

27.03.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No