

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.1909 of 2017 (O&M)
Date of Decision.20.05.2019

Kishan Chand and others

...Appellants

Vs

Gram Panchayat Pranpura, Tehsil Bawal, District Rewari and others
...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ajay Jain, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The short point involved in the present appeal is whether the appellants-plaintiffs can be permitted to claim declaration to be owners in possession of land described in the plaint and as mentioned in Annexure 1 to Annexure 54 i.e. Ex.P-67 to Ex.P120 by denying title of the Gram Panchayat along with permanent injunction in a civil suit, in view of the embargo under Section 13-A of the Punjab Village Common Lands (Regulations) Act, 1961 as applicable to Haryana, the answer would be 'NO'.

Mr. Ajay Jain, learned counsel appearing on behalf of the appellants submitted that the trial Court though decreed the suit, the lower Appellate Court has erroneously reversed the finding being a jurisdictional error but the fact of the matter is that jurisdiction to grant injunction qua forcible interference and dispossession is always of a Civil Court. In support of aforementioned, relied upon judgment rendered by Coordinate Bench of this Court in **Jhagru Ram Vs.**

Jagan and others 2010 (4) PLR 605.

He further pointed out that earlier in proceedings initiated by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulations) Act, 1961 against few persons, it was found that land belonged to them and the aforementioned proceedings were set aside but said order is not part and parcel of the record. Scope of Section 9 of the Civil Procedure Code is very wide, which cannot take away the jurisdiction of the Civil Court if action of other party is so imminent of forcible dispossession.

I have heard learned counsel for the appellants, appraised paper book and of view there is no force and merit. It would be apt to reproduce Section 13A of the Punjab Village Common Lands (Regulations Act), which is as under:-

*“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 authorised 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 subsection (1) shall be the same as laid down in the Code of Civil Procedure, 1908 (Act 5 of 1908).

From the perusal of Section 13A, it manifest that competent officer/authority is enjoined an obligation to deal with the controversy in same manner as part of a Civil Court. Once the authority has trappings of Civil court, it will not be denuded to pass any injunction order. There is no dispute to the ratio decidendi culled out in **Jhagru Ram's case** (supra), that was a case where on account of encroachment of public passage during the pendency of the suit, injunction was, in peculiar circumstances, granted.

In view of aforementioned circumstances, judgment and decree rendered by lower Appellate Court cannot be said to be suffering from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 20, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No