

**RA-CR No.205-CII of 2018 in
CR No.4522 of 2016**

Nafe Singh and others ... Applicant/petitioners

Versus

Gram Panchayat, Bilaspur and others ... Respondents

Present: Mr. Amit Jain, Advocate
for the applicant/petitioners.

Mr. S.S. Sodhi Advocate
for respondent No.1.

Mr. D.R. Singla, DAG, Haryana
for respondents No.2 and 3.

[1]. Main case i.e. CR No.4522 of 2016 was decided by this Court vide order dated 19.09.2018. The present revision petition was filed against the order dated 04.03.2016 passed by Civil Judge (Senior Division), Gurgaon (now Gurugram), vide which application for taking appropriate action against respondents No.2 and 3 for non-compliance of judgment and decree dated 27.02.2013 which was affirmed upto the High Court was dismissed.

[2]. Plaintiffs/petitioners filed a suit for permanent injunction against the Gram Panchayat and the same was decreed. Gram Panchayat was restrained from interfering into the possession of the plaintiffs over the suit property. Defendants were also restrained from dispossessing the plaintiffs in any manner by way of raising any construction or otherwise except in due course of law.

[3]. The appeal filed by the Gram Panchayat was partly allowed. The decree qua khasra Nos.9/1/2, 9/2/2, 17/1, 26/2 (0-1) was set aside, whereas qua khasra Nos.7, 8/2 and remaining land

measuring 0 kanal 4 marlas of khasra No.26/2 was upheld vide judgment and decree dated 23.09.2013 passed by the Lower Appellate Court.

[4]. Two regular second appeals were filed in the High Court. RSA No.266 of 2014 was filed by the Gram Panchayat, whereas RSA No.357 of 2014 was filed by the plaintiffs. High Court decided both the appeals vide common order dated 26.02.2015. RSA No.266 of 2014 was dismissed and RSA No.357 of 2014 was allowed. Judgment and decree of the trial Court was restored. Gram Panchayat was restrained from interfering in the possession of the plaintiffs in any manner much less raising any construction over the suit property except in due course of law.

[5]. In the execution filed by the plaintiffs, defendants No.2 and 3 were additionally arrayed as respondents, though they were not party to the decree passed by the trial Court. Decree was sought to be executed against the aforesaid respondents on the ground that they had requested the aforesaid respondents to incorporate their names in the revenue record and in the column of possession in place of their father Bihari, but respondents No.2 and 3 in collusion with Gram Panchayat were delaying the matter intentionally and refused to incorporate names of the plaintiffs in the revenue record as per judgments and decrees passed by the Courts below.

[6]. The prayer was made to detain the respondents in civil imprisonment and for attachment of their properties till enforcement

of the decree. It was also prayed that respondents No.2 and 3 be directed to incorporate the names of the plaintiffs in revenue record in place of their father Bihari on the basis of decree passed by the Civil Court. The decree was passed against the Gram Panchayat. No direction was issued in the decree against respondents No.2 and 3. Respondents No.2 and 3 were not privy to the suit proceedings. Relief of permanent injunction being a relief in *personam*, cannot be enforced qua respondents No.2 and 3 who are not party to the *lis*. No relief qua correction of revenue record was granted by the Civil Court and the executing Court cannot go beyond the decree. Impugned order dated 04.03.2016 passed by the Civil Judge (Senior Division), Gurgaon (now Gurugram) was held to be not enforceable. Petitioners were granted liberty to maintain their execution as against the judgment debtor i.e. Gram Panchayat in accordance with law.

[7]. Learned counsel for the applicant/petitioners submitted that the applicant/petitioners have not assailed the order dated 19.09.2018 on merits. Their grievance is that the order dated 04.03.2016 was passed on twin prayers i.e. on two different applications filed by the respective parties. In fact, separate revision petitions ought to have been filed, but since common order was passed, therefore, one revision petition was filed for both the causes of action.

[8]. This Court while deciding the revision petition on 19.09.2018 has adverted to the cause of action in the context of

appropriate action against respondents No.2 and 3 for not incorporating the names of the plaintiffs in the revenue record. To that extent, applicant/petitioners are not aggrieved, but the issue of acceptance of objections of the Gram Panchayat by framing the issues has not adverted to by this Court in the impugned order, therefore, necessary clarification be made that the issue arising out of acceptance of objections of the Gram Panchayat by way of framing issues be kept intact and liberty be granted to the petitioners to assail the same in accordance with law.

[9]. This Court while deciding revision petition i.e. CR No.4522 of 2016 vide order dated 19.09.2018 has adverted to the issue of taking appropriate action against respondents No.2 and 3 for non-compliance of judgment and decree dated 27.02.2013. This Court has not decided anything in respect of issue arising out of acceptance of objections of the Gram Panchayat. To that extent, it is clarified that the order dated 19.09.2018 is confined to the application for taking appropriate action against respondents No.2 and 3 for non-compliance of judgment and decree dated 27.02.2013 and nothing beyond that.

[10]. With this clarification, the present review application is disposed of.

29.11.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No