

RSA-2288-2013(O&M) 1

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

**RSA-2288-2013(O&M)
Date of decision: 23.01.2020**

Bhom Singh

.....Appellant

Versus

Gram Panchayat, Rudrol and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sumit Sangwan, Advocate for the appellant

Mr. Nitin Jain, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in Regular Second Appeal against the concurrent finding of facts arrived at by the Courts below. The plaintiff has filed the present suit claiming that mutation no. 571 dated 15.8.2000 entered and sanctioned by the revenue authorities is erroneous. It would be significant to note here that previously also the Gram Panchayat had claimed that land measuring 900 kanals 9 marlas comprised in khewat no. 123 khatoni no. 206 situated in village Rudrol rest in it. Parties fought the litigation upto the Hon'ble Supreme Court which went in favour of Gram Panchayat.

This suit was filed by as many as 35 persons claiming that land measuring 13 kanals 3 marlas comprised in khewat no. 122 has been wrongly mutated in favour of the Gram Panchayat. The Gram Panchayat claims that the aforesaid land is part of the land measuring 900 kanals 9

marlas.

From a bare look at the impugned mutation, it is apparent that in the ownership column before the sanction of mutation dated 15.8.2000 entry, was 'Gram Panchayat Deh'. However, the land was shown to be in possession of various respondents. The only change now recorded is that the Gram Panchayat Deh has been recorded to be in self cultivation.

In the considered view of this Court, in view of the aforesaid facts, the question which ultimately arises is whether the land vests with the Gram Panchayat and it is shamlat deh or not. Jurisdiction of the Civil Court barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act of 1961'), as applicable to Haryana to adjudicate such question. Section 13 of the Act of 1961 is 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.”

The Legislature has created a Forum for adjudication of such disputes under Section 13-A of the Act of 1961, which is extracted as under:-

“Section 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, plaintiff-appellant may, if so advised, file proceedings before the Collector under Section 13-A of the Act of 1961.

Disposed of.

23.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No