

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

RSA-6080-2014 (O&M)
Date of decision : 29.01.2020

Phool Kanwar and others

...Appellants

Versus

Gram Panchayat Madina Gindhran

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K. Hooda, Advocate for the appellants.

Mr. S.P. Chahar, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment and decree passed by the learned trial Court.

The plaintiffs had filed a suit for permanent injunction restraining the defendant from dispossessing them from the property in dispute. Prayer for mandatory injunction was also made for directing the defendant to hand over the vacant possession of the suit property. The plaintiffs claimed that the suit property is comprised in Khasra Nos.12977 and 12991 whereas the Gram Panchayat claimed that the property vests in it being part of land comprised in khasra No.12851.

Learned First Appellate Court, after noticing Sections 13 and 13-A of the Punjab Village Common Lands (Regulation) Act, 1961

(hereinafter to be referred to as “the Act of 1961”) has observed that the jurisdiction of the Civil Court to entertain and decide such dispute as to whether the property is *shamlat deh* or not or it vests with the Gram Panchayat or not, can only be decided by a Forum constituted under the Act of 1961. Sections 13 and 13-A of the Act of 1961 as applicable in the State of Haryana, are extracted as under:-

“13. Bar of jurisdiction in civil courts – No civil courts shall have jurisdiction -

(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not shamilat deh vested or deemed to have been vested in a Panchayat under this Act; or

(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act; or

(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine.

13-A. Penalties and procedure – (1) No person shall unless entitled or authorised so to do, by law or by an instrument or an order executed or issued by a competent authority under law, enter into the possession of any land vested or deemed to have been vested in a Panchayat under this Act or having lawfully entered into possession of such land; unlawfully remain in possession thereof, on or after the expiry of the term of such lawful possession, if any.

(2) Any person who contravenes the provisions of sub-section (1) shall, notwithstanding any thing contained in any other law, be punished with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who abets an offence punishable under this

Act, shall be punished with the punishment provided for the offence.

(4) Notwithstanding, anything contained in the Code of Criminal Procedure 1973, an offence under this Act, shall be cognizable.”

In view of the aforesaid facts, the plaintiffs-appellants are relegated to the remedy under the Act of 1961.

In view of the 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.

29.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No