

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 6113 of 2018 (O&M)
Date of Decision: 23.1.2020**

Nasiru (deceased) through Lrs

---Appellant

versus

Sada and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. R.S.Budhwar, Advocate
for the appellant**

Rekha Mittal, J.

CM No. 17036-C of 2018

Prayer in this application is for impleading legal representatives of Nasiru-appellant (since deceased).

In view of averments made in the application supported by an affidavit of Isran, one of the sons and arguments advanced by counsel for the applicant, the application is allowed and persons mentioned in para No. 2 of the application are allowed to be brought on record as legal representatives of Nasiru-appellant (since deceased), for the purpose of present lis only, subject to just exceptions.

Disposed of accordingly.

Main case

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for permanent

injunction restraining the appellant-defendant (since deceased) from dispossessing the plaintiffs from land measuring 8 kanal 14 marlas, detailed in head note of the plaint, was decreed by the trial court vide judgment and decree dated 3.10.2013 that came to be affirmed in appeal by the Additional District Judge, Yamuna Nagar at Jagadhri.

Counsel for the appellant has assailed concurrent findings recorded by the courts primarily on two counts. It is argued that since the land is shown to be *shamlat deh*, in the revenue records, jurisdiction of civil court to entertain the present suit is barred under Section 13 of the Punjab Village Common Lands Act, 1961 (as applicable to State of Haryana).

Another submission made by counsel is that suit is bad for non-joinder of necessary party i.e. Gram Panchayat of village Pilkhanwala, Tehsil Jagadhri, District Yamuna Nagar.

The respondents-plaintiffs filed a simpliciter suit for grant of permanent injunction restraining the appellant-defendant from dispossessing them or interfering in their peaceful cultivating possession of suit land. The jurisdiction of civil court is barred in case there is dispute between the parties whether the land in question does or does not vest in Gram Panchayat, therefore, first contention raised by counsel has rightly been rejected by the courts.

The respondents-plaintiffs did not claim any relief against the Gram Panchayat apprehending any threat against their dispossession by Gram Panchayat. The cause of action for filing a suit for permanent injunction against the respondents is personal in nature and as such, Gram Panchayat was not a necessary party. This apart, the Appellate Court has rightly rectified the error committed by the trial court declaring the

respondents-plaintiffs to be owner in possession of suit land as said court has set aside observation of the trial court in respect of ownership of suit land.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

23.1.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No