

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

RSA-838-2018 (O&M)
Date of decision : 18.02.2020

Gram Panchayat

...Appellant

Versus

Karambir

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Alankrit Bhardwaj, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-2080-C-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 21 days in refiling the present appeal is condoned.

Application is allowed.

Main case

The defendant-appellant-Gram Panchayat has filed the present Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit for grant of decree of permanent injunction restraining the defendant from interfering in his possession.

The plaintiff claims that he has an ancestral house depicted in the layout plan with words ABCD. Alongwith the house, there is a vacant piece of land which has been identified with letters ABFE on the layout

plan. The case of the plaintiff is that he is in settled possession from 80 years and now the Gram Panchayat is threatening to raise construction in the aforesaid portion for which construction material has been collected. The plaintiff has also stated that the present Sarpanch of the Gram Panchayat is inimical and, therefore, the plaintiff is sought to be forcibly dispossessed.

The defendant contested the suit and pleaded that the suit land is comprised in khasra No.37/26 and the same was donated by the inhabitants of the village to the Gram Panchayat on 05.02.2013.

Learned trial Court appointed a Local Commissioner to investigate and submit a report. The Local Commissioner, who was a revenue official, submitted a report that in the southern side of khasra No.37/26, lies lal dora of the village and Gram Panchayat has constructed a boundary wall. Thus, the Court found that the plaintiff is proved to be in settled possession of the disputed land. Both the Courts did not go into the issue of title.

This Court has heard learned counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellant has submitted that the Courts have wrongly shifted the onus on the defendant whereas it is for the plaintiff to stand on his own legs. He further submitted that no injunction can be granted against the true owner.

This Court has considered the submissions. The plaintiff, in order to prove his case, has appeared in evidence as PW1. Ex.P1, a layout plan was proved. Further, the Court appointed the Local Commissioner who

also got the area demarcated. In such circumstances, it would not be appropriate to hold that the Courts have shifted the onus.

With regard to next argument of learned counsel, the present suit is only for grant of injunction with respect to small area which is abutting the residential house of the plaintiff. The Gram Panchayat has a remedy of filing the petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 seeking removal of unauthorized possession, if any, after establishing its title.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

18.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No