

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

RSA-134-2019 (O&M)

Date of decision: 09.12.2021

Gram Panchayat of Village Jaraut, Tehsil Dera Bassi, District SAS
Nagar, Mohali.

....Appellant

Versus

Krishan Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dhirinder Chopra, Advocate for the appellant
 Mr. Kanwar Abhay Singh, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The petitioner- Gram Panchayat of village Jaraut, Tehsil
Dera Bassi, District SAS Nagar, Mohali, assails the correctness of the
judgment and decree passed by the Additional District & Sessions Judge,
Mohali.

Some facts are required to be noticed. The plaintiffs
(respondents herein) filed a suit for grant of decree of permanent
injunction, restraining the Gram Panchayat and its representatives from
interfering in the possession of the plaintiffs from the suit land situated
in the abadi of the village Jaraut, bearing khasra no.594. The Gram
Panchayat defended the suit with the assertion that, previously, a suit
filed by the brother of plaintiff no.1 and the father of plaintiff no.3
regarding the same property was dismissed by the civil court on
03.10.2000, while returning a finding that the disputed property actually
falls in khasra no.595. Learned trial court also noticed that there are
various orders passed against the plaintiffs and their family members

under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, (hereinafter referred to as 'the 1961 Act') ordering their eviction from the land comprised in both khasra no.594 and 595. The trial court further held that in view of Section 13 of the 1961 Act, the jurisdiction of the civil court is barred.

However, the learned First Appellate Court has reversed the judgment and decree passed by the trial court, even after noticing that there is a collective order passed by the Collector pertaining to land comprised in khasra no.594 and 595.

Heard learned counsel for the parties at length and with their able assistance perused the paper book.

Learned counsel representing the plaintiffs (respondents) does not dispute that there is an order of eviction against the plaintiffs and their family members, ordering their eviction, from the land comprised in khasra no.594 and 595. It is also not disputed that a previous suit filed by the brother of plaintiff no.1 and the father of plaintiff no.3, has been dismissed while recording a finding that the disputed property falls in khasra no. 595.

However, learned counsel representing the respondents contends that before taking possession, the Gram Panchayat is required to get the area demarcated.

In the considered view of this Court, the civil court has no jurisdiction in the aforesaid matter. Section 13 of the 1961 Act, clearly

provides that once an order has been passed by the Collector, no civil court shall have jurisdiction to question the legality of such action.

Section 13 of the 1961 Act is extracted as under:-

:13. Bar of Jurisdiction in Civil Courts:-No civil court 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].

Furthermore, before granting any injunction, the court is required to examine whether the plaintiffs have prima facie case or they have any right, title or interest in the property. The plaintiffs have failed to draw the attention of the Court to any such right. The various orders passed under Section 7 of the 1961 Act have become final. In view thereof, the judgment passed by the First Appellate Court is clearly unsustainable. Hence, it is set aside and that of the learned trial court is restored.

The Regular Second Appeal stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

09.12.2021

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Whether speaking/reasoned : Yes/No

(ANIL KSHETARPAL)
JUDGE