

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

Sr. No.121

**Civil Revision No.1712 of 2021
Date of Decision : August 26, 2021**

Naresh Kumar

...Petitioner

Versus

Gram Panchayat and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Nonish Kumar, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner has filed a suit for injunction restraining the Gram Panchayat-respondent No.1 from raising any construction upon the suit property. Along with the plaint, an application under Order 39 Rules 1 & 2 CPC has also been filed. The trial Court allowed the same and enjoined the Gram Panchayat. Appeal against this order has, however, succeeded and order of trial Court has been set aside.

Learned Appellate Court has found that the Gram Panchayat is the owner of the suit land. This finding is based upon the revenue record. A resolution has been passed for creating a rasta in the suit land and pursuant to the said resolution construction work is in progress. The submission of the plaintiff that the land was reserved for common purposes at the time of consolidation has been rejected. Consequently, order of the trial Court has been set aside.

Civil Revision No.1712 of 2021

Learned counsel for the petitioner submits that the land in dispute has been reserved for common purposes at the time of consolidation. The Gram Panchayat is the custodian of the property. As the custodian, it can utilize the land only for common purposes of the village. Construction of the rasta is being done only to facilitate a private party which has constructed an illegal hospital known as Astha Hospital. Thus, the Appellate Court was in error in setting aside the order passed by the trial Court.

To support the argument that the land in dispute was reserved for common purposes at the time of consolidation, no evidence has been referred to. Thus, the finding of the Appellate Court that the land is Gram Panchayat property and can be used as it desires cannot be faulted. Under the circumstances, there is no prima facie case in favour of the petitioner-plaintiff and no irreparable loss would be caused to him by construction of the rasta. Thus, the order of the Appellate Court deserves to be upheld.

The revision petition has no merit and is dismissed.

August 26, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No