

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

RSA No.1213 of 2015

Date of decision: 12th November, 2021

Rawat Singh & others

... Appellants

Versus

Gram Panchayat Sahuwas & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Jasbir Singh, Advocate for the appellants.

Mr. S.S. Dalal, Advocate for the respondent No.1.

None for respondent No.2.

FATEH DEEP SINGH, J.

Plaintiffs Rawat Singh, Meer Singh and Kuldeep, all three sons of Subh Ram had instituted against the Gram Panchayat of Village Sahuwas a suit for permanent injunction restraining the defendants from dispossessing them from land measuring 16K-0M in Mustil/Killa No.40//6(8-0), 15(8-0) Khewat No.286, Khatoni No.323, 333 as per jamabandi for the year 2005-06 situated in village Sahuwas, Tehsil Charkhi Dadri. The claim is based on the averments that the suit land was being cultivated by the father of the plaintiffs since time spanning above 50 years and the revenue record reflects it so and threatened over the acts of the respondent Gram Panchayat that they wish to carve out plots for

the families of Below Poverty Line (BPL), had led to institution of suit in question.

Respondents in their stand took the plea that the land falls under the definition of Shamlat Deh and is the ownership of the Gram Panchayat to which the plaintiffs have no right, title or interest. The trial Court framed the following issues:-

1. Whether the plaintiff is entitled to relief of permanent injunction as prayed for? OPP
2. Whether the plaintiff has no locus standi to file the present suit? OPD
3. Whether the present suit is not maintainable in the present form? OPD
4. Whether the plaintiff has not come in the Court with clean hands? OPD
5. Whether the suit is false and frivolous? OPD
6. Relief.

The plaintiffs examined one of them as PW-1 through his affidavit Ex.PW1/A and examined PW-2 Baljeet Panch who filed his affidavit Ex.PW2/A followed by testimony of PW-3 Ram Mehar through his affidavit Ex.PW3/A to similar effect. After tendering documents of revenue record Ex.P1 to Ex.P7, the plaintiffs closed their evidence.

Defendants examined Chandermukhi Sarpanch of Gram Panchayat of the village as DW-1 and who through her affidavit

Ex.DW1/A proved documents Ex.D1 to Ex.D4, Mark A to Z and Mark A to A4 and thereafter closed the evidence.

The Court of learned Civil Judge (Junior Division) Charkhi Dadri decreed the suit of the plaintiffs with no order as to costs. Upon appeal by the Gram Panchayat, the Court of learned Additional District Judge, Bhiwani through impugned judgment and decree dated 02.03.2015 set aside the orders of the trial Court while allowing the appeal and ordered dismissal of the suit of the plaintiffs. The same is subject matter of present appeal before this Court.

Heard learned counsel for the parties and perused the records of the case.

In view of the recent pronouncement in **‘Kirodi (since deceased) through his LR vs. Ram Parkash & others’ Civil appeal No.4988 of 2019; SLP(C) No.11527 of 2019 decided on 10.05.2019**, the Hon’ble Supreme Court has clearly held under Section 41 of the Punjab Courts Act, 1918 which has its application to the States of Punjab and Haryana, that there is no necessity of framing substantial question of law for disposal of an appeal.

The plaintiffs have come up seeking relief of permanent injunction and thus in the light of the well enshrined principle of law, the question of title cannot be gone into in a mere suit for permanent injunction. It has been rightly held by the learned first appellate Court that the trial Court was not supposed to express its opinion on the title of

the property and therefore, has come to a justifiable conclusion setting aside these findings of the trial Court.

As has been contended before this Court by learned counsel for the two sides, the revenue record Ex.P1 to Ex.P5 clearly bears out that the suit land is Jumla Mustarka Malkan land and which as per the Punjab Village Common Lands (Regulation) Act, 1961 is the ownership of the Gram Panchayat and the proprietors of the village which can be administered by the Gram Panchayat. A few stray entries made in Ex.P1, Ex.P2, Ex.P3 and Ex.P4 are not a continuous chain showing continuous and uninterrupted possession of the plaintiffs and so is Khasra Girdawari Ex.P5 and which is further corroborated from the jamabandi Ex.P4 which shows the property to be the ownership of the Gram Panchayat. Even during the course of arguments it has not been displaced by learned counsel for the appellants as to the land in question being Jumla Mustarka Malkan. How or by what means the appellants claim themselves to be in occupation of the same, are matters which have not been substantiated by the plaintiffs on record. The plaintiffs have filed the instant suit and therefore a heavy onus lay upon them to prove and establish their case to the hilt. Moreover, being a common village land, jurisdiction of Civil Court is barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961, is another distressing feature for the plaintiffs who were under bounden duty to have invoked

the jurisdiction of the competent authority under the Act, which they failed to do so.

The first appellate Court has rightly drawn conclusion based on the interpretation of revenue record proved on record. That the plaintiffs at the most can be termed to be trespassers and who under the law are not entitled to protect their possession qua the true owners which is none but the Gram Panchayat Sahuwas. It is a matter of common knowledge that such common village lands are a booty for the villagers who to make undue profits manage to get stray entries made in the revenue records during the course of time when they wield influence with the revenue authorities and cannot bestow upon such fraudulent beneficiaries any right, title or interest over such properties which are common to the owners of the village.

In the light of foregoing contentions and as has been observed, the learned lower appellate Court has given a well reasoned judgment based on true interpretation of the documents and which findings need to be upheld. Resultantly, the appeal being without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

November 12, 2021

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No