

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3718 of 2019

Date of Decision: 28.10.2022

Gram Panchayat of Village Salempur Bet, Tehsil and District Ludhiana

... Petitioner(s)

Versus

Parminder Pal Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Parunjeet Singh, Advocate
for the petitioner(s).

Mr. Rajesh Punj, Advocate
for the respondent.

Anil Kshetarpal, J.

1. An application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) to reject the plaint on account of bar under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the 1961 Act”), as applicable to the State of Punjab, has been dismissed by the trial Court vide order dated 01.02.2019. The petitioner-Gram Panchayat, while questioning its correctness, has filed this revision petition.

2. It is evident that the plaintiff (respondent herein) has filed a suit for grant of declaration to the effect that he is owner in possession of the land measuring 6 kanals and 11 marlas by prescription of time (adverse possession). As per the relevant jamabandi, the property is recorded in the ownership of Gram Panchayat Deh.

3. Section 13 of the 1961 Act, as applicable to the State of Punjab, 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.”

4. The Civil Court has refused to reject the plaint on the ground that the property is not a *shamilat deh* land even though it is recorded to be owned by the Gram Panchayat in the revenue record.

5. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

6. It is evident from the reading of Clause (a) of Section 13 of the 1961 Act that the question as to whether any property or any right to or interest in any property is or is not *shamilat deh*, vested or deemed to have vested in a Panchayat shall exclusively be decided by the Court constituted under the provisions of the 1961 Act. The jurisdiction to decide such questions has been conferred on the Court of Collector under Section 11 of the 1961 Act, which is extracted as under:-

deh.-

(1) Any person claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub- section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form as manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such as he deems fit.”

7. The question as to whether the suit property is or is not *shamilat deh* is required to be decided by the Collector and the jurisdiction of the Civil Court has been specifically excluded.

8. In the present case, the plaintiff claims that he has perfected his title by way of adverse possession. Thus, the plaintiff (respondent) claims that the property does not vest in the Panchayat. Determination of such a question exclusively falls within the domain of the Collector empowered under Section 11 of the 1961 Act.

9. Keeping in view the aforesaid facts, this revision petition is

allowed and the order dated 01.02.2019, passed by the trial Court is set aside

being unsustainable. The plaint shall stand rejected. However, the plaintiff shall have the liberty to file proceedings under Section 11 of the 1961 Act.

(Anil Kshetarpal)
Judge

October 28, 2022
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No