

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

RSA-4028-2019 (O&M)

Date of decision: 29.07.2022

Tejwant

....Appellant

Versus

Gram Panchayat, Taprian and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Bal, Sr. Advocate with
 Mr. D.S.Gill, Advocate for the appellant

Mr. Anuj Baliyan, Advocate for respondent no.1 and 2

ANIL KSHETARPAL, J (Oral)

While assailing the concurrent findings of the facts, arrived at by the courts below, the plaintiff has filed this Regular Second Appeal. The plaintiffs claim to be the co-sharers in exclusive possession of 8 kanals and 4 marlas located in Village Taprian, District Panchkula. In the written statement, the Gram Panchayat asserted that the land is being reserved for the construction of playground of the school and for the time being, it is being leased by the Gram Panchayat on an annual basis. Both the courts have dismissed the said suit.

Learned senior counsel representing the appellant contends that the Gram Panchayat has failed to prove that the property is being leased out on annual basis.

In such situation, the primary question which arises for adjudication would be, “As to whether the land meant for the construction of school playground is Shamlat deh or not?” Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter

referred to as 'the 1961 Act'), bars the jurisdiction of the court to entertain or adjudicate upon any question whether any land or other immovable property is Shamlat deh or not. The exclusive jurisdiction to decide such question vests with the Collector under Section 13A of the 1963 Act. After discussing the aforesaid issue, this Court in '**Samar vs. Roshan Lal and others** (RSA-2412-2018 decided on 04.07.2022) has held that the civil court should not entertain and decide a suit if the question in issue is with regard to vesting of immovable property or not in Gram Panchayat arises. The Supreme Court in '**Ram Singh and others Vs. Gram Panchayat Mehal Kalan and others**' (1986) 4 SCC 364 has held that mere clever drafting of the suit would not confer jurisdiction on the civil court on this particular matter.

Keeping in view the aforesaid facts, the present appeal is disposed of.

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

29.07.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE