

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

RSA No.4375 of 2019 (O&M)
DATE OF DECISION : 22.07.2022

SultanAppellant

versus

Gram Panchayat Shera and AnotherRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr.Ashish Handa, Advocate/Legal Aid Counsel for the
appellant

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ALKA SARIN, J. (Oral):

CM-12256-C-2019:

For the reasons stated in the application, the delay of 140
days in filing the appeal is condoned.

CM disposed off.

RSA No.4375 of 2019:

The present regular second appeal has been preferred
against the judgment and decree dated 23.03.2017 passed by the Civil
Judge (Junior Division), Panipat and judgment and decree dated

15.01.2019 passed by the Additional District Judge, Panipat non-suiting the plaintiff-appellant.

Learned counsel for the plaintiff-appellant would contend that the Sarpanch-DW1 Suresh had admitted that the land qua which the suit was filed was part of the house and hence the learned counsel would contend that permanent injunction ought to have been granted.

The brief facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for passing of a decree of permanent injunction restraining the defendant-respondent Gram Panchayat from demolishing and from interfering in the peaceful possession of the house as detailed in the plaint. It was further averred in the plaint that the property was the residential house of the plaintiff-appellant and he had been residing in the said house since the time of his forefathers.

On notice, the defendant-respondent No.1 Gram Panchayat filed a written statement and pleaded that it had filed an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 and the same was pending before the Assistant Collector, Grade-I, Panipat and that the plaintiff-appellant had dishonestly occupied the part of the area. On the basis of the pleadings of the parties, the following issues were framed:

1. Whether the plaintiff is entitled to decree for permanent injunction, as prayed for ? OPP

2. Whether the suit is not maintainable in the present form ? OPD
3. Whether the plaintiff has no cause of action or locus standi against the defendants ? OPD
4. Whether the plaintiff has not come to court with clean hands against the defendants ? OPD
5. Whether the plaintiff has no jurisdiction to file the present suit ? OPD
6. Relief.

The Trial Court vide the impugned judgment and decree dated 23.03.2017 dismissed the suit of the plaintiff-appellant. Aggrieved by the said judgment and decree, an appeal was preferred which also met the same fate.

A perusal of the judgments and decrees passed by both the Courts below, returning concurrent findings of fact, reveals that no evidence was led by the plaintiff-appellant in order to show that the suit land was owned by him. Further, admittedly, the defendant-respondent Gram Panchayat had filed an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 which now stands decided in favour of the defendant-respondent Gram Panchayat on 10.08.2018 and the appeal filed by the plaintiff-appellant also stands dismissed on 29.11.2018. Due process of law is being followed for the ejectment of the plaintiff-appellant by the defendant-respondent Gram Panchayat.

In view of the above, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts below. No question of law, much less a substantial question of law, arises in the present case.

The appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

22.07.2022
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO