

CR-730-2023(O&M) and
CR-1454-2023(O&M)

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

(1) CR-730-2023(O&M)

Gram Panchayat Kaler, Block Chogawan, District Amritsar

...Petitioner

Versus

Parkash Singh

...Respondent

(2) CR-1454-2023(O&M)

Gram Panchayat Kaler, Block Chogawan, District Amritsar

...Petitioner

Versus

Parkash Singh

...Respondent

Date of decision:-15.3.2023

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Akhilesh Vyas, Advocate
for the petitioner in both petitions.

Mr.Divanshu Jain, Advocate
for the respondent in both petitions.

H.S. MADAAN, J.

1. Vide this order, I shall dispose of two civil revision petitions

i.e. CR-730-2023 and CR-1454-2023 filed on behalf of

revisionist/petitioner Gram Panchayat Kaler, Block Chogawan, District Amritsar.

2. Briefly stated, facts of the case are that Gram Panchayat village Kaler through its Sarpanch Baljit Singh, Tehsil Ajnala, District Amritsar had brought a suit against defendant Parkash Singh son of Harbans Singh, resident of that very village, seeking a declaration that the plaintiff Gram Panchayat is owner in possession of land measuring 2 Kanals 11 marlas bearing khasra No.18/1 Khata Khatoni No.219/588 as per jamabandi for the year 2005-06 and the alleged sale deed dated 28.7.2011 said to have been executed by the plaintiff in favour of the defendant is illegal, null and void not binding upon the plaintiff being a forged and fabricated document etc.; in addition to that seeking a decree for permanent injunction restraining the defendant from alienating the suit property or changing its nature in any manner.

3. On getting notice, the defendant appeared and filed a written statement contesting the suit. Issues on merits were framed. During the course of proceedings, the plaintiff filed an application under Order 6 Rule 17 CPC seeking amendment of the plaint as well as another application under Order 1 Rule 10 CPC seeking impleadment of Smt.Simarjit Kaur, Ex-Sarpanch and Gurmit Singh, Lamberdar as defendants No.2 and 3. Both the applications were dismissed by the trial Court vide separate orders dated 28.10.2022, leaving the plaintiff aggrieved and it has filed two separate revision petitions.

4. The respondent/defendant had filed a caveat petition in one of the revision petitions and appeared through counsel. However, counsel

representing the respondent has put in appearance in the other revision petition also.

5. I have heard learned counsel for the parties besides going through the record.

6. A perusal of the record goes to show that plaintiff village Gram Panchayat, which is revision petitioner before this Court is seeking a declaration that it is owner in possession of the suit land and the alleged sale deed dated 28.7.2011 executed by the plaintiff in favour of the defendant is illegal, null and void. In terms of Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961 any person or a Panchayat 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. This section further provides that any person or a Panchayat aggrieved by an order of the Collector can prefer an appeal to Commissioner within 60 days from the date of order. Section 13 of the Act bars jurisdiction of the Civil Court to entertain or adjudicate upon any person 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.

7. This aspect of the matter seems to have either escaped the attention of the trial Court or the situation could not be properly understood by the trial Court. Nevertheless the impugned orders

dismissing the applications for amendment of the plaint and impleadment of parties are quite detailed and well reasoned not suffering from any illegality or infirmity.

8. The proposed amendment of the plaint is to incorporate the words that the sale deed had been executed by previous Sarpanch Simarjit Kaur in favour of father of the defendant, namely, Harbans Singh by obtaining forged and fabricated permission from the concerned department/officials and the alleged resolution dated 15.7.2011 on the basis of forged permission are illegal, null and void. Learned trial Court has rightly observed that the application was filed highly belatedly when the case was fixed for evidence of defendant and in terms of proviso to Order 6 Rule 17 CPC, no application for amendment shall be allowed after the trial has commenced, unless Court comes to the conclusion that inspite of due diligence, that party could not raise the matter before the commencement of the trial and the application was dismissed.

9. With regard to the second application for impleadment, it was also declined observing that the plaintiff had failed to establish that Simarjit Kaur, Ex-Sarpanch and Gurmit Singh, Lamberdar are necessary parties.

10. Furthermore, in view of the discussion above when the very maintainability of the suit in the Civil Court is highly doubtful, the applications for amendment and impleadment were rightly rejected and no fault can be found with the impugned orders.

11. The revision petitions are found to be without merit and stand dismissed accordingly.

Since the main revision petitions stand dismissed, the
miscellaneous application(s), if any, stand disposed of accordingly.

15.3.2023

(H.S.MADAAN)

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JUDGE

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**