

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA-869-1991 (O&M)  
Date of decision: 10.01.2023

|                         |     |                |
|-------------------------|-----|----------------|
| Gram Panchayat          |     | ...Appellant   |
|                         | V/S |                |
| Ajmer Singh and another |     | ...Respondents |

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Atul Gaur, Advocate for  
Mr. Ashwani Gaur, Advocate,  
For the appellant.

None for respondent No.1.

Respondent No.2 proceeded ex parte  
before Trial Court.

**ARUN MONGA, J. (ORAL)**

For convenience, parties herein are described as per recitals before  
the trial Court.

2. Having suffered concurrent adverse findings by the two Courts  
below, the defendant is in second appeal before this Court assailing the trial  
Court judgment and decree dated 12.12.1987, whereby suit of the plaintiff  
seeking declaration was decreed with costs. Plaintiff was declared as owner in  
possession of the suit land. Learned First Appellate Court upheld the trial Court  
decree vide its judgment and decree dated 02.02.1991.

3. Briefly stated, facts as noticed by Courts below.

3.1 Plaintiff claims ownership and possession of land measuring 9  
kanals 2 marls detailed and described in the head note of the plaint situated in  
Village Gola Tehsil and District Ambala, being bonafide purchaser vide  
conveyance deed dated 16.08.1983 (Ex.P.11). The plaintiff in the suit also

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sought the setting aside of order dated 28.11.1984 (Ex.P.1) passed by Joint Secretary-cum-Settlement Commissioner, Haryana, Chandigarh vide which said sale was cancelled, being illegal, void-ab initio. Plaintiff also claimed the relief of permanent injunction as a consequential relief, restraining the defendants from interfering into peaceful possession of the plaintiff over the suit land.

3.2           Averments of the plaintiff are that he purchased the land in suit in an open auction held by Tehsildar (Sales) on 18.08.1981 for a sum of Rs.7,000/- Auction sale was confirmed on 07.09.1981 by Assistant Settlement Officer (Sales) Ambala in favour of plaintiff. After total sale consideration was paid, possession of the land in suit was delivered to him. He is in possession of the land in suit as owner since then.

3.3           However, defendant No.2 Gram Panchayat of Village Gola filed an objection petition against the said auction of land in favour of the plaintiff. Objections were dismissed by learned Assistant Settlement Officer (Sales) Ambala vide his order dated 23.08.1982. Defendant No.2 did not file any appeal and the time limit for filing the appeal expired. Notwithstanding, defendant No.2 then filed a revision petition after about a year, before the Joint Secretary Rehabilitation, Haryana, Chandigarh.

3.4           The Joint-Secretary-cum-Settlement Commissioner, Haryana Chandigarh allowed the revision petition and set aside the sale of the land in dispute vide impugned order dated 28.11.1984 (Ex.P1) on the ground that the said auction was not properly conducted.

4.           Upon notice, suit was contested by defendant No.2-Gram Panchayat, Gola. Defendant No.1-State of Haryana was proceeded ex parte on 02.05.1985. Defendant No.2 took the preliminary objection that the suit land is vested in Gram Panchayat, Gola. Otherwise also, Civil Court has got no

jurisdiction to try and entertain the suit. Defendant No.2 also objected to the auction sale in favour of plaintiff. Same being null and void, ineffective being without jurisdiction. Defendant No.2 also pleaded that Rehabilitation Authorities could not sell the land in public auction, since the suit land vested with the Gram Panchayat, under the provisions of Punjab Village Common Lands (Regulation) Act, 1961.

5. Based on the rival pleadings, following issues were framed:

*“1. Whether the plaintiff is the absolute owner in possession of the suit land? OPP*

*2. Whether the order dated 28/29.11.1984 passed by Joint Secretary-cum-Settlement Commissioner, Haryana, Chandigarh is illegal and void-ab-initio if so, to what amount? OPP*

*3. Whether the Civil Court has no jurisdiction to entertain and try the present suit? OPD2*

*4. Whether the Gram Panchayat is the owner of the suit land and has been lease by public auction to different persons as alleged in para No.3 of the preliminary objection? OPD 2*

*5. Whether the suit is not maintainable in the present form? OPD 2*

*6. Whether the defendants are entitled for special costs? OPD*

*7. Relief.”*

6. The parties to the suit adduced their oral as well as documentary evidence in support of their pleadings and to discharge their respective onus as per the issues, *ibid*.

7. On appraisal of evidence vis-à-vis pleadings, issue No.1 was decided in favour of the plaintiff. Even the issues No.2 to 5 were also decided in favour of the plaintiff and against the defendant. Issue No.6 was returned against the defendants and in favour of the plaintiff. Consequently, the suit of plaintiff was decreed with costs and plaintiff was declared as owner in possession of the land in suit and order dated 28.11.1984 was set aside being without jurisdiction.

8. First Appellate Court below dismissed the appeal, resulting in Regular Second Appeal by defendant before this Court.

9. In its judgment, the learned First Appellate Court, *inter alia* observed as below:

XXX

XXX

“10. *It is also worth mentioning here that a separate suit U/S 13A of the Punjab Village Common Lands(Regulations) Act, 1961 was filed by the appellant against the plaintiff respondent, wherein it was held that the Gram Panchayat, Gaula is not the owner of the suit land and it was held that the Central Govt. is the owner of the same vide order dated 25.11.83 (Ex.P/15). No appeal was preferred against this order by the Gram Panchayat. In view of the order Ex-P.15, it cannot be said or held that mutation No.460 showing the land measuring 60 Kanals 2 marlas to be owned by Central Government is a sham transaction. Moreover, this court cannot sit over as a court of appeal over that order passed by the Asstt. Collector 1st Grades, Ambala which is Ex.P.15.*

11. *After going through the documentary as well as oral evidence led on the file, as discussed above, I am of the considered opinion that the plaintiff- respondent has been proved to be the absolute owner in possession of the suit land and that Gram Panchayat, Gaula is not the owner of the suit land. Hence, the trial court was fully justified in deciding issue No. 1 in favour of the plaintiff respondent and issue No.4 against the appellant. The findings on both issues given by the trial court are thus affirmed.*

12. *The learned counsel for the appellant has also challenged the findings of the trial court on issue No.2 but he has failed to point out any illegality or infirmity in the same in view of the overwhelming documentary evidence on the file. The sale in favour of the plaintiff respondent was complete in all respects and the conveyance deed had also been executed in his favour and the possession of the suit land had also been delivered to him and he is in physical possession of the same since 1982. Moreover, the appellant could not raise this plea before the Settlement Commissioner, Haryana, Chandigarh who was not at all competent to decide this issue, specially when a suit filed under Punjab Village Common Lands(Regulations) Act, 1961 stands decided holding that Gram Panchayat was not the owner of the suit land and the land vested in the Central Government vide mutation No.460 and as such, Central Government was fully competent to auction the land in question. Hence, the findings*

*given by the trial court on issue No.2 are also justified and the same do not call for any interference in this appeal and the same are affirmed.*

13. *The learned counsel for the appellant has prayed for the refund of Rs.9000/- already deposited on behalf of village Panchayat in pursuance of the order of the Joint Settlement Commissioner dated 18.11.84 with a further prayer that in case the order passed by Joint Settlement Commissioner is held to be without jurisdiction, then the specific order for the refund of the above said amount be passed in favour of the appellant. As I have already observed above that the Settlement Commissioner, Haryana was not competent to decide the matter in view of earlier suit U/S 13A of Punjab Village Common Lands (Regulation Act, 1961 having been dismissed, wherein Central Government has been held to be the owner of the land in question, I order that the appellant would be at liberty to withdraw the above mentioned amount of Rs.9000/- if so advised in this behalf.*

14. *No other point was urged before me in this appeal by either side.*

15. *In the result, the present appeal has no merit and the same is hereby dismissed.”*

10. I have heard the learned counsel and perused the judgments of both the Courts below.

11. To my mind, judgments under challenge have been rendered after due and correct appreciation of record including the evidence adduced by the parties.

12. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below. No interference is thus called for to disturb the said concurrent findings. In this second appeal, no fresh ground worthy of interference is made out.

13. No question of law, much less substantial one, a *sine qua non* for entertaining regular second appeal, is involved herein, for exercise of appellate jurisdiction of this Court under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

- 14. As an upshot of my preceding discussion, the appeal is dismissed, being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.
- 15. Pending application/s, if any, shall also stand disposed of.
- 16. No order as to costs.

**(ARUN MONGA)**  
**JUDGE**

**January 10, 2023**

Vandana

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