

RA-RS-61-2019;
CM-6690-C-2019; and
CM-6691-C-2019 in
RSA-815-1989

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

RA-RS-61-2019(O&M) in
RSA-815-1989
Date of decision:-13.3.2023

Ajaib Singh (deceased) through LRs

...Review Applicants/Appellants

Versus

Gram Panchayat / Gram Sabha of village
Fattan Majri

...Respondent

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

Present: Mr.G.S. Sidhu, Advocate
for the applicants/appellants.

H.S. MADAAN, J.

CM-6690-C-2019

1. The application is allowed, as prayed for and documents are taken on record, subject to all just exceptions.

CM-6691-C-2019

2. This is an application for impleading the legal heirs of deceased Baldev Singh, who is one of the legal heirs of appellant Ajaib Singh.

For the reasons mentioned in the application, the same is

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allowed and legal heirs of deceased Baldev Singh are brought on record, subject to all just exceptions.

RA-RS-61-2019

3. Briefly stated, facts of the case are that plaintiff Ajaib Singh since dead represented by his LRs, had brought a suit against Gram Panchayat/Gram Sabha of village Fattan Majri, seeking a decree for permanent injunction restraining the defendant from interfering into his possession and demolition of construction in the plot situated at village Fattan Majri for the reason asserting that he was owner in possession of the said suit property for the last 30 years before filing of the suit and had spent Rs.5 lakhs on raising construction.

4. The said suit was contested by the defendant contending that the plaintiff had brought a similar suit earlier, which was dismissed in default, therefore the second suit was not maintainable and jurisdiction of the Civil Court was barred in the matter in terms of Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961. The defendant further contended that the plaintiff was trying to seek a declaration regarding title in garb of the injunction.

According to the defendant, the plaintiff was in unauthorized possession of the land belonging to the village Gram Panchayat and on proceedings under Section 5 of the Public Premises and Land (Eviction and Rent Recovery), Act 1969 having been initiated against him, he was ordered to be ejected and physical possession was delivered to Gram Panchayat on 7.6.1986. The defendant craved for dismissal of the suit.

5. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence in support of their respective claims.

6. After hearing arguments, the trial Court of Sub Judge Ist Class, Patiala vide judgment and decree dated 27.9.1988 dismissed the suit of the plaintiff.

7. Feeling aggrieved, the plaintiff had preferred an appeal before District Judge, Patiala, which was assigned to Additional District Judge, Patiala, who vide judgment and decree dated 20.12.1988 had dismissed the same.

8. Still feeling dissatisfied, the plaintiff had knocked at the door of this Court by way of filing a regular second appeal, notice of which was given to respondent, who had initially put in appearance but subsequently absented.

9. On 27.3.2019, the counsel who had been appearing for the appellants earlier stated that his clients had taken away brief and sought liberty of the Court to withdraw his power of attorney. His such prayer was accepted. Since the appeal was of the year 1989, learned Single Judge proceeded to decide the same on merits and vide detailed order dated 27.3.2019 dismissed the appeal upholding the judgments and decrees passed by the Courts below.

10. Thereafter, the LRs of the deceased appellant had brought the present application for review of order dated 27.3.2019 contending that since there was no representation on their behalf on that date, the pleas

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raised by them remained untouched and have not been dealt with.

11. I have heard learned counsel for the applicant besides going through the record and I find that there is absolutely no merit in the application.

12. The scope of review in terms of Order XLVII CPC is quite limited and the instant case does not fall within parameters of the said provision, since the counsel, who had been appearing for the appellant earlier had withdrawn his vakalatnama for the reason that the LRs of the appellant had taken away brief from him. Keeping in view the fact that the appeal was of the year 1989, learned Single Judge of this Court proceeded to decide the same on merits. The order passed in that regard is quite detailed containing reasons for arriving at the conclusion. The jurisdiction of the Civil Court to decide the question of title in *shamlat* land was found to be barred under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961. Even otherwise, the plaintiff had already availed of the said remedy claiming himself to be proprietor. However, his such petition had been dismissed by Collector vide order dated 23.10.1987 finding that he was not a proprietor having any share in the land. The plaintiff had filed a similar suit earlier, which was dismissed as withdrawn, therefore, the second suit was barred by law. Both the Courts below had returned concurrent finding that plaintiff had failed to show that he had been in possession of the suit property before 26.1.1950 and Gram Panchayat was not doing any illegal act while seeking possession from the plaintiff, therefore the claim of the plaintiff was rejected. It has

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been observed in order dated 27.3.2019 passed by this Court that no substantial question of law arises for determination and no ground was made out for interference with the judgments and decrees passed by the Courts below.

13. Thus, there is absolutely no reason to review the said order.

14. The application is totally misconceived and stands dismissed accordingly.

13.3.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No