

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CR-3243-2022
Date of decision: 06.12.2023

BALRAM ..Petitioner
Versus
SHANKAR AND ANR ..Respondents

2. CR-3292-2022

BALRAM ..Petitioner
Versus
GOBIND GYAN AND ANR ..Respondents

3. CR-3293-2022

BALRAM ..Petitioner
Versus
PARDEEP AND ANR ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate
for the petitioner.

Mr. S.S. Sahu, Advocate
for respondent No.1.

Ms. Sunita Devi, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the parties, three connected revision petitions are being disposed of by a common order.
2. In all these three revision petitions, the petitioner’s application for impleading him as defendant in the three pending suits, has been dismissed by the trial Court. The correctness of the aforesaid orders have been challenged in these revision petitions.

3. In order to comprehend the issue involved in the present cases, the relevant facts, in brief, are required to be noticed.

4. The petitioner (applicant before the trial Court) filed three petitions on 14.12.2020 under Section 7 of the Punjab Village Common Land Act, 1961 (hereinafter referred to as the '1961 Act') seeking removal of unauthorized occupation from the respondents (the plaintiffs in the trial Court) with respect to *shamlat deh* land, which vests in the Gram Panchayat. The respondents (the plaintiffs in the trial Court) filed three civil suits on 20.11.2020, claiming that the Gram Panchayat entered into an agreement to sell with their predecessor on 15.02.1983 and by virtue of that they are in possession of the property. They also alleged that the notice issued by the Gram Panchayat under Section 24(1) of the Haryana Panchayati Raj Act, 1994, is wrong, illegal and not in accordance with the law of land.

5. The respondents herein (plaintiffs in the civil suit before the trial Court) filed three separate applications with a prayer to *sine die* adjourn the proceedings in the petitions filed under Section 7 of the 1961 Act because of the status quo order passed in the civil suit. The Assistant Collector on 06.01.2021 has allowed the applications and adjourned the proceedings *sine die* only on account of injunction granted in favour of the respondents herein (plaintiffs in the civil suit before the trial Court). Thereafter, the petitioner filed three separate applications under Order I Rule 10 of the Code of Civil Procedure, 1908, with a prayer to implead him as a defendant in three suits. He alleged that the elected representatives of Gram Panchayat Chando Khurd have in fact colluded with the respondents (plaintiffs in the civil suit). The Court has dismissed the application on the

ground that the plaintiff is the *dominus litis* and the Gram Panchayat is defending the suit. It has also been observed that the petitioner has no right, title or interest in the property.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. On the one hand, the learned counsel representing the petitioner contends that the petitioner had filed an application under Section 7 of the 1961 Act in order to remove the encroachment made by the plaintiffs over Gram Panchayat's land. He had acted in the public interest. However, the plaintiff in collusion with the Gram Panchayat filed a suit and obtained an injunction order, which further resulted in stalling the proceedings under Section 7 of the 1961 Act.

8. On the other hand, the learned counsel representing the respondents contends that the trial Court has correctly dismissed the application. He relies upon the judgment passed by the Supreme Court in **Mohamed Hussain Gulam Ali Shariffi Vs. Municipal Corporation of Greater Bombay and others, 2020 (14) SCC 392.**

9. Ordinarily, the plaintiff being the *dominus litis* is not forced to contest the suit against his wishes, however, this doctrine is followed by certain exceptions. Here is a case where *prima facie* the land belongs to the Gram Panchayat, which is the body corporate. It is expected to defend the suit through an authorized representative. The petitioner claims that the suit property in fact vests in the Gram Panchayat as it is a *shamlat deh* land. While alleging that the Panchayat is not taking steps to get unauthorized encroachment removed, he filed three petitions under Section 7 of the 1961

Act on 14.12.2020. Three different suits were filed by the plaintiffs on 20.11.2020 i.e. before the petitions under Section 7 of the 1961 were filed. However, it was on the application of respondents (the plaintiffs), the proceedings filed under Section 7 of the 1961 Act were adjourned *sine die*. Hence, the petitioner is interested in the expeditious disposal of the suits. Moreover, there are allegations that the elected office bearers of the Gram Panchayat are colluding with the plaintiffs. Hence, in order to protect the *shamlat deh* land, if any, it would be in the interest of justice to allow the petitioner to help the Civil Court in adjudicating the dispute in an effective manner. It was on the application of the respondent, the proceedings were adjourned *sine die*. In these circumstances, the Court erred in dismissing the petitioner's applications. This Court has carefully read the judgment passed in **Mohamed Hussain Gulam Ali Shariffi's case (supra)**. The facts of the aforesaid case are different. In the aforesaid case, the applicant had not filed any proceedings seeking removal of the encroachment over the municipal land. Hence, the above-mentioned judgment is not applicable.

10. Keeping in view the aforesaid facts and discussion, all the three revision petitions are allowed. The impugned orders are set aside. The petitioner in all the three petitions shall be added as defendant.

11. Disposed of accordingly.

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

December 06th, 2023

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(ANIL KSHETARPAL)
JUDGE

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