

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

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**CR-2545-2020(O&M)
Date of decision: 18.12.2023**

GRAM PANCHAYAT TIGAON**..Petitioner****Versus****RAMBIR SINGH AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Gaurav Singla, Advocate
for the petitioner.

Mr. Sukesh Kumar Jindal, Advocate
for Mr. Rohit Chaudhary, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. Gram Panchayat, Tigaon, assails the correctness of the order passed by the Civil Judge, Junior Division, Faridabad, on 27.08.2020, while dismissing the petitioner's application under Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint.

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

3. The respondents filed a suit in July, 2020, claiming a decree for declaration against the petitioner (Gram Panchayat, Village Tigaon). It is the case of the plaintiffs that they are owners in possession of the property and certain houses have also been constructed. Defendant No.1 is trying to dispossess the plaintiffs and as a result they have filed the suit.

4. Defendant No.1 (the petitioner) filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908. It was alleged that the property in dispute is a part of the *shamlat deh* land and therefore, the jurisdiction of the Civil Court under Section 13 of the Punjab Village

Common Lands (Regulation) Act, 1961 (hereinafter referred to as the '1961 Act') is expressly barred. The learned trial Court has dismissed the application that it is the averments of the plaint, which are required to be looked into and it is the case of the plaintiff that the suit land is not *shamlat deh*, hence, the application is dismissed.

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

6. On the one hand, the learned counsel representing the petitioner (defendant No.1) contends that as per Section 13 of the 1961 Act, the jurisdiction of the Civil Court is barred from entertaining or adjudicating upon any question whether any property or immovable property is or is not *shamlat deh*. Clause (ii) of Section 13 provides that the Civil Court shall also have no jurisdiction to decide whether the property vest or does not vest in the Gram Panchayat.

7. On the other hand, the learned counsel representing the respondent (plaintiff) contends that the plaintiffs have been claiming ownership of the property from the time of their ancestors and it is the positive case of the plaintiff that the property is not part of the *shamlat deh*.

8. This Court has considered the submissions and analyzed the arguments of the learned counsel representing the parties.

9. Section 13 of the 1961 as applicable to Haryana is extracted as under:-

“13. Bar of Jurisdiction in Civil Courts:- No civil court shall have jurisdiction:-

(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not Shamlat deh vested or deemed to have been vested in a Panchayat under this Act; or

(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act, or
(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine].”

10. It is evident that the legislature has made an effort to take away the jurisdiction of the Civil Court from entertaining or adjudicating upon any question relating to any land or other immovable property being ‘*shamlat deh*’. In other words, the jurisdiction of the Civil Court is barred in both the eventualities. If the land is *shamlat deh*, the Civil Court has no jurisdiction to entertain the matter, however, where the question with regard to the land being *shamlat deh* or not arises, it is also not maintainable before the Civil Court. Thus, the trial Court has erred in *prima facie* observing that the perusal of the averments of the plaint do not prove that the suit land is *shamlat deh*. It is obvious that the Court has overlooked Section 13(a), that bars the jurisdiction of the Civil Court from entertaining or adjudicating upon any question including the question that the property does not vest in Gram Panchayat.

11. Keeping in view the aforesaid facts, the revision petition is allowed.

12. The impugned order dated 27.08.2020, is set aside. The plaint filed by the plaintiff is rejected with liberty to file the appropriate proceedings under Section 13(a) of the 1961 Act.

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

December 18th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*