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

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**RSA-3466-2023 (O&M)
Decided on : 31.10.2023**

State of Haryana

. . . Appellant(s)

Versus

Santosh and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Yuvraj Shandilya, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Present Regular Second Appeal (RSA) has been filed by Defendant i.e. State of Haryana (appellant herein) against the concurrent findings of decretal of suit in favour of the plaintiffs (respondents herein).

2. Plaintiffs filed a suit for declaration and permanent injunction by pleading that they are owners in possession of the houses, plot and gitwar, fully detailed in paragraph No.2 of the plaint, and same has been inherited by them from their ancestors. One ejectment petition was instituted by defendants No.2 & 3 (i.e. Mahabir and Ran Singh), under the Public Premises Act, before the Court of Collector. Said petition was allowed vide order dated 26.07.2002, whereby, plaintiffs were ordered to be ejected from the land in question. Plaintiffs preferred appeal before the Court of Commissioner at Rohtak, but said appeal was dismissed vide order dated 27.08.2004.

Thus, the orders passed under the Public Premises Act, have been impugned by the plaintiffs by way of civil suit, by urging that the same are illegal, null & void. In the written statement filed by defendant No.1 i.e.

State of Haryana, it was pleaded that the land in question, was given to

defendant No.1 by Gram Panchayat – Asaudha Todran, by passing a resolution in the year 1965, and a Health Centre was constructed thereon by the defendant No.1, which was working upto 1977. However, said Health Centre collapsed in the floods, and thereafter, plaintiffs illegally encroached upon the suit land.

3. Learned Trial Court vide its order dated 28.07.2016, framed the following five issues:-

- “1. Whether the plaintiffs are entitled to a decree for permanent injunction on the grounds mentioned in the plaint as prayed for?
OPP
2. Whether the plaintiffs are entitled to a decree for declaration on the grounds mentioned in the plaint as prayed for? *OPP*
3. Whether the suit of the plaintiffs is not maintainable in the present form? *OPD*
4. Whether the plaintiffs have no cause of action to file the present suit? *OPD*
5. Relief.”

4. After examining the complete set of evidence, led by both the sides learned Trial Court found that area in question falls in Khasra No.2931, and falls within the *abadi deh* of village Asaudha Todran. Said finding has been given as per the entry made in the Jamabandi for the year 2006-07 (Ex.D12), and also added that mere passing of the resolution of Gram Panchayat *qua* the land of *Shamlat Deh*, or other properties vested in the Gram Panchayat, is not enough for validly handing over, any such property, either to some private person or to State agency, because, resolution is required to be forwarded to the higher authorities under the Act and Rules framed under the Punjab Village Common Lands (Regulation) Act, 1961.

The defendant – State, has brought nothing on record to show that any

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resolution passed by the said Gram Panchayat in the year 1965, was ever sent to the Director, Gram Panchayat, or any approval was ever granted in this regard.

5. Thus, the learned Court below held that defendant No.1, cannot claim any right over the property only under the resolution passed by the Gram Panchayat. Even, learned State counsel also could not point out any illegality, or irregularity in the manner of appreciating the evidence by the Courts below.

Even, no question of law, much less, any substantial question of law arises for consideration in the present appeal for interference in the impugned judgments & decree passed by the Courts below.

Thus, the instant appeal being devoid of merits, stands **dismissed**. The judgment(s) & decree passed by both the Courts below are hereby affirmed.

(SANJAY VASHISTH)
JUDGE

October 31, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*