

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

**RSA-558-2019 (O&M)
Reserved on : 10.01.2024
Pronounced on : 16.01.2024**

MAJOR SINGH AND ANOTHERAppellants

VERSUS

GRAM PANCHAYATRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ankush Singla, Advocate for the appellants.

ALKA SARIN, J.

1. The present Regular Second Appeal has been preferred by the plaintiff-appellants against the judgments and decrees dated 15.07.2015 and 19.11.2018 passed by the Trial Court and the First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-appellants filed the present suit averring therein that the plaintiff-appellants are the owners of suit property i.e. Khewat Khatauni No.624/531/975, Khasra No.64//10/3(2-0) which is owned and possessed by plaintiff-appellant No.1 and land comprised in Khewat Khatauni No.625/532/973, Khasra No.64//10/2(1-11) wherein plaintiff-appellant No.1 has 11/12th share and plaintiff-appellant No.2 has 1/12th share as per the jamabandi for the year 2007-08. It is further averred that the defendant-respondent/Gram Panchayat is trying to take forcible possession of the suit property.

3. On notice, defendant-respondent/Gram Panchayat filed it's written statement. It was averred by the defendant-respondent/Gram

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Panchayat that the plaintiff-appellants in connivance with the revenue authorities got their names mentioned as owners of the property in dispute and the same was challenged by the defendant-respondent/Gram Panchayat before the Collector-cum-Divisional Deputy Director Panchayat, Patiala wherein an order was passed on 30.04.2007 vide which the defendant-respondent/Gram Panchayat was declared as owner of the property in dispute. The appeal filed by the plaintiff-appellants before the Director, Rural Development and Panchayat, Punjab was dismissed and the defendant-respondent/Gram Panchayat was held to be owner of the property in dispute. It is further averred that the present suit was filed only to stop the execution of the warrants of possession.

4. On the basis of the pleadings of the parties, the following issues were framed :

- (i) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for ? OPP
- (ii) Whether the plaintiff is jurisdiction of the Court is barred under Punjab Village and Common Land Act ? OPD
- (iii) Whether the suit of the plaintiff is not maintainable in the present form ? OPD
- (iv) Whether the plaintiff has not come to the Court with clean hands and has concealed the material facts ? OPD

(v) Whether the plaintiff has no *locus-standi* and cause of action to file the present suit ? OPD

(vi) Relief.

5. On the basis of pleadings of the parties and the evidence led, the Trial Court dismissed the suit. Aggrieved by the said judgment and decree an appeal was preferred which also came to be dismissed. Hence, the present Regular Second Appeal.

6. Both the Courts below have concurrently found that the plaintiff-appellants had not disclosed the previous litigation in the present suit and that the defendant-respondent/Gram Panchayat had been held to be owner vide Exhibits D-5 and D-7. Even as per the jamabandi (Exhibit D-6) it is clear that the actual owner in the year 1992-93 was the Gram Panchayat and thereafter wrong entries were made qua the suit property in the revenue records.

7. Learned counsel for the plaintiff-appellants has vehemently contended that the plaintiff-appellants are the owners of the suit property and in any case even if they are mere trespassers they cannot be dispossessed except in due course of law.

8. I have heard the learned counsel for the plaintiff-appellants.

9. In the present case both the Courts below have concurrently found that the plaintiff-appellants had not approached the Court with clean hands inasmuch as they have not disclosed the facts regarding the earlier litigation wherein the Gram Panchayat had been held to be the owner of the

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suit property. The argument of the learned counsel for the plaintiff-appellants that the plaintiff-appellants are the owners of the suit property cannot be accepted in view of the findings returned by both the Courts below to the effect that the plaintiff-appellants are unable to prove the title of their vender. It has also been noticed by the Trial Court that even the original sale deed qua the property in dispute was never produced in the Court. Hence, the argument of the learned counsel for the plaintiff-appellants that they are the owners of the suit property cannot be accepted. The next argument of the learned counsel for the plaintiff-appellants that even if the plaintiff-appellants are mere trespassers they cannot be dispossessed except in accordance with law also deserved to be rejected on the ground that already proceedings are pending wherein the Gram Panchayat has been held to be the owner. There is not even an averment as to how the plaintiff-appellants are being dispossessed forcibly. The defendant-respondent/Gram Panchayat has already taken a recourse to its legal remedies and is pursuing the same.

10. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The present Regular Second Appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

16.01.2024

Aman Jain

**(ALKA SARIN)
JUDGE**

*NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*