

118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7554-2016 (O&M)

Date of decision: 21.03.2024

Amar Singh and another

....Petitioners

Versus

Gram Panchayat Dhana Kalan and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Mani Ram Verma, Advocate for the petitioners

Mr.Vikas Mohan Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. The defendant has filed this revision petition to challenge the correctness of civil courts order refusing to reject the plaint filed by the Gram Panchayat under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC').

2. In substance, the Gram Panchayat filed a suit for the grant of decree of declaration that the suit property is vested in the Gram Panchayat and is being used for the benefit and welfare of the village community and the order passed by the Assistant Collector, Hansi, the court of limited jurisdiction, is based upon fraud, collusion, misrepresentation and without jurisdiction, hence, it is void, illegal and inoperative. The Panchayat has also prayed for recovery of Rs.2,64,000/- with the consequential relief of the permanent injunction. The defendants filed an application under Order VII Rule 11 CPC to reject the plaint, which has been dismissed by the trial court.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the petitioners has made the following submissions:-

- i) The jurisdiction of the civil courts is barred under the Punjab Village Common Lands (Regulation) Act, 1961. He admits that this argument was never taken up before the trial court, however, it goes to the root of the matter.
- ii) The order passed by the Assistant Collector is appealable under the provisions of Haryana Dohidar, Butimar, Bhondedar, anti Muqararidar (Vesting of Proprietary Rights) Act, 2010 (hereinafter referred to as '2010 Act'). He relies upon the judgment passed by the Supreme Court in **Yeshwant Deorao vs. Walchand Ramchand 1951 AIR SC 16.**

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. At this stage, this Court considers it appropriate to take note of some facts. Dholi is a special grant given in lieu of the service rendered for charitable, religious or public purpose. The Dholi rights can be given by the proprietors or the Gram Panchayat. The persons in whose favour the Dholi is granted are called Dholidars. The State of Haryana by '2010 Act' made a provision for vesting of the proprietary rights in the Dholidar for deciding the rights, Tribunals of limited

jurisdiction were created. The ambit of the said Act was challenged, however, it's validity was upheld.

7. Now, moving on to the issue arising before this Court, the trial court while rejecting the plaint at the very threshold, is required to fairly come to a conclusion that the suit filed by the plaintiff is barred by the statutory law. The primary jurisdiction vested in the civil courts is with respect to the civil disputes. However, if the orders passed by the Tribunals of limited jurisdiction are alleged to be in violation of the provisions of the Act or in violation of the principles of natural justice, then, the civil court has the jurisdiction to entertain the suit. By a detailed judgment, a Five Judge Bench of this Court in **State of Haryana and others vs. Vinod Kumar and others 1986 AIR (Punjab) 407**, has laid down the aforesaid law.

8. The petitioners have never taken up the objection made in the first submission before the court below. This Court, while exercising the revisional jurisdiction, is required to examine the legality of the impugned order. Hence, it would not be appropriate for this Court to entertain a new plea on behalf of the petitioner.

9. While filing the suit, the Gram Panchayat has alleged that the Presiding Judge of the Tribunal has played fraud and the order passed by the Tribunal is result of collusion between the Presiding Officer and the defendants. It has also been alleged that the Tribunal has no jurisdiction to decide such matter. The Gram Panchayat has also prayed for recovery of Rs.2,64,000/- alongwith interest. In such circumstances, at this stage, it would not be appropriate to express any

final opinion about the maintainability of the suit, particularly when the points, in issue, taken up in the plaint were debatable. The judgment passed in **Yeshwant Deorao's case (supra)** is not in the context of Order VII Rule 11 CPC. In that case, the Supreme Court was examining the matter after the evidence had been led and the case was finally decided by the court.

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Hence, dismissed.

12. It shall be open to the petitioners to pray for framing a distinct issue before the trial court. Needless to observe that the observations made by this Court or by the trial court shall not be construed as final expression on the merits of the case.

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

21.03.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE