

RSA-2169-1989 (O&M) and connected case 1

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

(102) **RSA-2169-1989 (O&M)**
Date of Decision : November 25, 2024

Ram Chand (deceased) through LRs .. Appellants

Versus

District Sonapat Red Cross Society and another .. Respondents

(102-1) RSA-2391-1989

Mangat Ram (deceased) through LRs .. Appellants

Versus

District Sonapat Red Cross Society and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.R. Hooda, Advocate, for the appellant(s)
in RSA-2169-1989.

Mr. Vikram Singh Punia, Advocate and
Mr. Amit Siwach, Advocate, for the appellant(s)
in RSA-2391-1989.

Mr. Shrenik Jain, Advocate and
Mr. A.P.S Nain, Advocate, for respondent No.1.

Mr. Rajesh K. Sheoran, Advocate and
Mr. Ojasvi Taak, Advocate, for respondent No.2
in both appeals.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two regular second appeals, the details of which have been given in the heading of the order, are being disposed of as both the appeals involves the same question of law on similar facts.

2. In the present appeals, the appellants have challenged the judgment of the trial Court dated 31.03.1986 by which, their suit seeking

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mandatory injunction against the District Red Cross Society as well as the Municipal Committee, Sonapat wherein, the challenge raised to the vesting of the *Shamlat Deh* with the Municipal Committee, Sonapat after the Gram Panchayat in question was dissolved, was dismissed. Even the appeal filed by the appellant was dismissed by the lower Appellate Court on 26.07.1989. Hence, the present regular second appeals.

3. The main challenge in the present appeals is that the land which was a *Shamlat Deh* and vested with the Gram Panchayat should go back to the proprietors instead of vesting with the Municipal Committee.

4. Learned counsel for the appellants argues that the judgments of the Courts below are perverse as upon dissolution of the Gram Panchayat, the land could not have vested with the Municipal Committee without there being any compensation and as the appellants have not been given any compensation, the land should revert back to the proprietors instead of being vested with the Municipal Committee, Sonapat after the Gram Panchayat was dissolved.

5. On being asked to point out the perversity in the judgments on the ground that the appellants were the proprietors of the land in question which ultimately vested with the Municipal Committee, learned counsel for the appellants has not been able to point out any evidence which has come on record to show that the appellants were owner of a particular land which ultimately vested with the Municipal Committee, Sonapat upon dissolution of the Gram Panchayat Garhi Brahmanan.

6. In the absence of any such record/evidence brought on record being shown to this Court to prove the findings recorded by the Courts

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below as perverse, the argument that the appellants are the proprietors of the

land in question, cannot be accepted. Rather, it has already come on record that appellants Mangat Ram and Ram Chand were the tenants in the land in question and were claiming the compensation upon being divested of the possession.

7. Learned counsel for the appellants concedes the factum that the eviction of Mangat Ram and Ram Chand from the land in question was done by the Gram Panchayat as per proceeding before the Revenue Court, which judgment of the revenue Court had already attained finality and the said order of eviction or even the order passed by the revenue authorities is not under challenge before any forum at the hands of the appellants Mangat Ram and Ram Chand.

8. Once, the possession from both the appellants was taken by the Gram Panchayat and the Gram Panchayat is not a party to the present suit, the validity whether, the Gram Panchayat evicted the appellants properly or not, cannot be gone into. Furthermore, the suit was filed against the Municipal Committee, Sonapat. The Municipal Committee, Sonapat only got the land which was being vested with the Gram Panchayat as *Shamlat Deh*. As per the order passed by the revenue authorities, the Gram Panchayat in question was the owner and after dissolution of the said Gram Panchayat, Municipal Committee, Sonapat has rightly been vested with the said land.

9. Further, as mentioned earlier, no description of the land which is the property of the appellants, has come on record to show that the said land proprietorship of which is being claimed by the appellants vested with

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the Gram Panchayat or the same was not *Shamlat Deh* but was any other

land and was not being put to common use. In the absence of any such evidence qua the claim of the appellants, they are proprietors of any land, which is vested by Municipal Council, Sonapat, the judgments of the Courts below cannot be treated as perverse.

10. In the regular second appeals, the perversity is to be shown in the findings recorded by the Courts below.

11. Learned counsel for the appellants has not been able to point out the perversity.

12. Learned counsel for the appellants argues that keeping in view the fact that Section 113 of the CPC deals with the reference to the High Court in case there is a challenge to the statutory provisions, the trial Court in the present case should have referred the matter to the High Court.

13. Qua the above arguments, the Courts below have rightly concluded that there is no specific challenge to Rule 3 of the Punjab Gram Panchayat Rules, 1955 as amended on 22.12.1976. In the absence of any challenge to the same, the Courts below had rightly not referred the matter to the High Court but in case, the appellants were aggrieved against the said act, they could have challenged.

14. Qua the argument of the learned counsel for the appellants that the validity of the notification dated 26.12.1976 should have been seen by the trial Court or the matter should have been referred to the High Court under Section 113 of the CPC, it may be seen that the suit filed by the appellants was not a declaratory suit but was suit for permanent injunction and therefore, the submission that declaration of the notification dated

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26.12.1976 as ultra-vires should have been done by the trial Court as well as

by the lower Appellate Court, cannot be accepted.

15. Further, the vesting of the *Shamlat Deh* land with the Municipal Council Sonapat after the dissolving of the Gram Panchayat was done on the basis of the Punjab Gram Panchayat Rules, 1955 which stood amended on 22.12.1976 so as to delete provisions of Rule 3 of 1955 Rules. The suit which was filed by the appellants was much after a period of three years of the said amendment and the appellants failed to challenge the said amendment even in the suit filed hence, question of referring an issue, which was already *prima facie* time barred, cannot be a ground to upset the judgments of the Courts below.

16. Learned counsel for the appellants further argues that though the Hon'ble Supreme Court of India while passing an order in ***Civil Appeal No.6990 of 2014 titled as State of Haryana through Secretary to Government of Haryana vs. Jai Singh and others decided on 07.04.2022***, decided the question of law against the appellants but the said judgment has been recalled and the matter is pending before the Hon'ble Supreme Court of India.

17. It may be noticed that in the present case, the appellants have not been able to prove their entitlement that they are the proprietors of the land in question and the land which has been vested initially with the Gram Panchayat and thereafter with the Municipal Committee, Sonapat, the appellants had any share to be claimed in the said land so as to claim the ownership of the same. Keeping in view the evidence which has come on record, despite repeated request of this Court, no such evidence has been

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cited that appellants were the proprietors who contributed the land in

question to Gram Panchayat and were entitled for restriction of the same after the Gram Panchayat dissolved.

18. In the present case, the judgment in *Jai Singh's case (supra)*, though might have been recalled but keeping in view the facts and circumstances of the present appeals and the evidence on record, the said question will not arise keeping in view the factual averments, which have not been proved by the appellants before the Courts below.

19. Further, it may be noticed that the judgment in *Jai Singh's case (supra)*, only relates to the certain provisions of the Municipal Corporation Act and the Punjab Village Common Land Act and not the Punjab Gram Panchayat Rules, 1955 as per which, the rule devolving of the land upon the proprietors was deleted and the land was vested with the Municipal Council.

20. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

21. Accordingly, both the appeals are dismissed.

22. Civil miscellaneous application pending if any, also stands disposed of.

23. A photocopy of this order be placed on the file of other connected case.

November 25, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No