

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

106

1. RSA-962-1994  
Date of decision: 09.04.2024

STATE OF PUNJAB & ORS. ..Appellants

Versus

GURBACHAN SINGH ..Respondent

2. RSA-963-1994

STATE OF PUNJAB & ORS. ..Appellants

Versus

GURBACHAN SINGH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanav Singla, AAG, Punjab.

Mr. K.S. Sidhu, Sr. Advocate  
with Mr. Praagbir Singh, Advocate  
and Mr. Kartik Bansal, Advocate  
for respondent.

ANIL KSHETARPAL, J(Oral)

1. Brief facts of the case:-

1.1 With the consent of the learned counsel representing the parties,  
two connected regular second appeals arising from a common judgment  
passed by the trial Court, which has been reversed by the First Appellate  
Court while deciding the plaintiff’s suit, shall stand disposed of.

1.2 The following interesting issue arises for consideration:-

“Whether the registered sale deed executed in favour of  
the State of Punjab can be ignored on the ground that it

has not been executed through the Hon'ble Governor of the State or on behalf of the Governor of the State?"

1.3 The undisputed facts of the matter at hand are that Gram Panchayat of village Malout purchased the land measuring 4 kanal and 16 marlas vide sale deed dated 19.06.1972, in order to provide water supply to the residents for construction of water works. The sale deed was executed in favour of the State of Punjab through Gram Panchayat. In this case, the vendors were private persons including Sh. Pritam Singh and the entire amount of sale consideration was paid by the Gram Panchayat. The water works was constructed by the concerned Department of the State Government. The plaintiff (respondent in RSA-963-1994) filed a suit for grant of decree of permanent injunction claiming that he has purchased the land measuring 11 kanal and 7 marlas comprised in Rectangle No.116, Killa No.16 (5-4), Rectangle No.458, Khasra No.4 (6-13). Thereafter, the plaintiff claims that he has orally exchanged 2 kanal and 9 marlas out of land comprised in Rectangle No.116, Killa No.16 (5-4) with Sh. Pritam Singh and obtained possession of the land comprised in Rectangle No.116, Killa No.15/2 (2-9). He claims to have constructed a bungalow, whereas, the defendant intends to demolish the same.

1.4 The State of Punjab contested the suit. It was claimed that the plaintiff has got no right, title or interest in the property as Sh. Pritam Singh, the vendor of the plaintiff had already sold the suit land in favour of the Government/Gram Panchayat. The trial Court dismissed the suit, however, decreed the counter claim filed by the State of Punjab directing the plaintiff to remove the obstruction.

2. **Reasons recorded by the First Appellate Court:-**

2.1 The First Appellate Court while relying upon Article 298 and 299 of the Constitution of India held that Gram Panchayat had no authority to purchase the land on behalf of the State Government. While interpreting Article 298 and 299, the First Appellate Court has held that any contract, which is entered into by the State Government has to be in the name of the Hon'ble Governor of the State and in absence thereof, such contract shall be considered *void ab initio*. Resultantly, the sale deed in favour of the State has been nullified by the First Appellate Court.

3. **Arguments put forth by the learned counsel representing the parties:-**

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the scanned lower Court record.

3.2 On the one hand, the learned counsel representing the appellant submits that the First Appellate Court has erred in accepting the appeal as the contract made for the public purpose cannot be nullified on the basis of Article 299 of the Constitution of India. He also submits that Article 298 discusses about business or trade carried on by the Government and it is not applicable to the facts of the present case.

3.3 Per contra, the learned Senior counsel representing the respondent submits that the sale deed executed in favour of the State is not enforceable, particularly when it has not been executed in accordance with Article 299 of the Constitution of India.

**4. Discussion by this Court:-**

4.1 This Court has considered the submissions of the learned counsel representing the parties.

4.2 The sale deed was executed on 19.06.1972 is Ex.D-1. This sale deed has been read over in the open Court.

4.3 In the aforesaid sale deed, the vendee has been described as State of Punjab through Department of Public Health through Gram Panchayat. The entire sale consideration has been paid by the Gram Panchayat. Even if it is assumed that the State could not enter into a contract unless it is entered in the name of the Hon'ble Governor or on behalf of the Governor, still the sale deed in favour of Gram Panchayat shall have to be considered particularly when the intention was to purchase the property for a public purpose. The Gram Panchayat as per part IX of the Constitution of India is also a body corporate. The Gram Panchayat has been defined under Article 243 (d) of the Constitution of India. In other words, the Gram Panchayat is a constitutional body created under the Constitution for empowering self governance at the village levels. Irrespective of the fact whether the property belongs to the State Government or Gram Panchayat, the plaintiff, who is a subsequent purchaser as well as recipient of a part of the land pursuant to exchange will not get any right, particularly when his vendor had already sold the property in favour of the State or the Gram Panchayat in the year 1972 for a public purpose. The Constitution of India under Article 243(G) empowers the Gram Panchayat to carry out the public work and welfare functions. Schedule 11 of the Constitution of India has enlisted a number of subjects on which the Gram Panchayat has been given

the power of implementation and execution. The said schedule underscores the responsibilities of Gram Panchayat and arrangement of clean drinking water is one such duty enlisted in it.

4.4. The First Appellate Court shall have ordered the rectification of the instrument i.e. sale deed as provided under Section 26 of the Specific Relief Act, 1963, rather than setting the sale deed aside. Hence, the impugned judgment is erroneous and perverse.

5. **Decision:-**

5.1 Keeping in view the aforesaid discussion, both the appeals are disposed of.

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

April 09<sup>th</sup>, 2024  
Ay

(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No