

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on: 01.02.2024
Pronounced on: 20.02.2024

1. RSA-1569-2019 (O & M)

VIJAY SINGH AND ORS.Appellants

Versus

GRAM PANCHAYAT AND ORS.Respondents

2. RSA-1009-2019 (O & M)

VIJAY SINGH AND ORS.Appellants

Versus

STATE OF HARYANA AND ORS.Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Anirudh Gupta, Advocate
for the appellants (in RSA-1009-2019).

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Kulwant Singh, Advocate
for the appellants (in RSA-1569-2019).

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Som Nath Saini, Advocate
for respondent-Gram Panchayat (in both the appeals).

SURESHWAR THAKUR, J.

1. Since both the appeals (supra), involve common questions
of law, besides, when the verdict challenged in both the appeals is

common to both, thus, they are amenable to be decided through a common order.

2. In civil suit no. 22 of 2014, an affirmative decree was made by the learned Civil Judge concerned, on 10.07.2015, vis-a-vis the relief claimed in the said suit, inasmuch as, for a decree of mandatory and permanent injunction being made, to the effect that the revenue entries in column No. 4 and column No. 5 of jamabandis, of the disputed lands situated within the revenue estate of Village Assan Kalan, Tehsil and District Panipat, are liable to be corrected, in favour of the plaintiffs, given they being the owners and co-sharers vis-a-vis the disputed lands, besides qua the espoused consequential relief of mandatory injunction directing defendants No. 1 to 3 to enter the names of the plaintiffs in equal shares in column No. 4 and column No. 5 of the jamabandis qua the suit property. Moreover, also qua the asking of relief, to the effect that the recording of mutation No.1184 dated 02.09.1956, and, on 27.12.1961, thus depicting the father of the plaintiffs as *gair marusi*, rather being illegal, null and void, thus, the espousal for a further consequential relief of permanent injunction restraining the defendants from dispossessing the plaintiffs from the suit property and from alienating the suit property in any manner, became also made.

3. The said affirmative decree became assailed by the appellant-defendant No. 4-Gram Panchayat, as well as by the State of Haryana before the learned First Appellate Court concerned. The said appeals were decided through a common judgment. The learned First Appellate Court through a verdict made on 08.12.2018, allowed both

Court. The relevant part of the verdict made by the learned First Appellate Court is extracted hereinafter.

“ Here it is point to mention that in Civil Writ Petition (CWP) no. 8272 of 2013 titled 'Pala Ram Versus State of Haryana', Hon'ble High Court has clearly held that the land in dispute vests in Gram Panchayat as Charand and Johar and therefore, cannot be excluded from the Shamlat Deh. In the writ petition, present plaintiffs are arrayed in the list of respondents at serial no. 16 A, B and C. Since the dispute has already been decided by Hon'ble High Court and revision against the order of Hon'ble High Court has already been dismissed by Hon'ble Supreme Court, therefore, now plaintiffs can not allege that mutation No. 1184 dated 2.9.1956 and 27.12.1961 were wrongly entered. While deciding the case learned lower Court has not taken into consideration the judgment passed by Hon'ble High Court in CWP No. 8272 of 2013 titled ' Pala Ram versus State of Haryana'. From the judgment in CWP no. 8272 of 2013, it is clear that suit land belongs to Gram Panchayat and therefore, learned lower Court has wrongly held that revenue entries in column no. 4 of ownership and column no. 5 of cultivation of the suit property are liable to be corrected in favour of the plaintiffs. In the considered opinion of this Court, learned lower Court has wrongly decreed the suit of the plaintiffs.....”

4. Feeling aggrieved from the verdict of the learned First Appellate Judge, whereby he set aside the judgment and decree passed by the learned lower Court, the private respondents-defendants therein have instituted the instant two RSAs before this Court.

Submissions of the learned counsel for the appellants.

5. The learned counsel for the appellants submits, that the

learned First Appellate Court was required to look into the entire evidence and to decide the case on its merits as no 'Charand' or pasture land could be reserved as per the schedule under the Consolidation Act and the Rules. The learned First Appellate Court has not given any finding on the merits of the case and merely by relying upon the judgment of the Hon'ble Division Bench of this Court has dismissed the suit of the appellants.

6. The jamabandis and khasra girdawaris of the disputed lands do not show the land as '*Charand*' or pasture and the learned First Appellate Court without looking into the evidence and law has wrongly reversed the finding of the learned trial Court while allowing the appeal of Gram Panchayat.

Inference of this Court.

7. For the reasons to be assigned hereinafter, the aggrieved from the verdict of the learned First Appellate Judge who allowed civil appeals No. 78 of 2015 and 72 of 2018, as became instituted before him, respectively by the Gram Panchayat and by the State of Haryana, and who have taken to institute thereagainsts, the instant RSAs, before this Court, rather for the reasons assigned hereinafter, are not entitled to claim that any substantial question is law is required to be formulated by this Court for any findings becoming returned thereons.

8. The reasons for drawing the above inference ensues from the factum that prior to the institution of the civil suit bearing No. 22 of 2014 by the plaintiffs-appellants, a representative suit, cast within the provisions of Section 13 B of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Haryana) (hereinafter for short

Collector concerned. However, on the said civil suit, the learned Assistant Collector First Grade though made a verdict declaring the plaintiffs to be amenable to become assigned the declaratory decree but yet on issue No. 10, the hereinafter extracted findings were returned.

“ As all the issues had already been decided, therefore, there is no necessity of giving detailed decision on all the issues. Even otherwise, after promulgation of Act No. 9 of 1992, the plaintiffs should have filed the present suit under Section 7 – A (ii) regarding their ownership, but they have not done so. The plaintiffs should have impleaded the legal representatives of the persons who died prior to and during the pendency of the suit, but they have not impleaded the legal representatives of the deceased persons. Therefore, in view of the aforesaid facts the suit filed by the plaintiffs is not maintainable and is being dismissed.....”

9. That yet against the said decision recorded by the learned Assistant Collector concerned over the suit filed by the plaintiffs, three appeals were raised by the aggrieved therefrom, before the learned First Appellate Court, and, through a common verdict made thereons, on 11.03.2000, by the learned Appellate Authority, the latter after allowing the appeals dismissed the plaintiffs suits, whereafter it declared that the disputed lands vest in Gram Panchayat Assan Kalan.

10. The said verdict became affirmed by the learned Commissioner, Rohtak through a verdict drawn on 14.02.2003 upon the relevant revision petitions.

11. Subsequently, even on writ petition(s) bearing CWP No. 8272-2003 and CWP-17386-2003, as became raised before this Court by the aggrieved from the above concurrently made verdicts respectively by the Appellate Authority and by the learned

Commissioner concerned, thus on the respective apposite statutory appeals and the statutory revision petitions, this Court after affirming the decision made on the said motions, proceeded to make the hereinafter extracted conclusions in the writ petition(s) (supra).

CWP-8272-2003

“ In view of what has been stated hereinabove, the writ petition is dismissed by holding that the land, in dispute, though described as Shamilat panna, vests in the Gram Panchayat, as 'charand' and 'johar', and, therefore, cannot be excluded from shamilat deh. The writ petition is accordingly dismissed.

CWP-17386-2003

“ The petitioner did not file a suit for declaration of title but as he is prima-facie a member of the panna, he had a right to file a revision before the Financial Commissioner. However, as the writ petition filed by other proprietors has been dismissed by holding that the Gram Panchayat is owner of the land, in dispute, the writ petition must also meet the same fate. Dismissed.”

12. A reading of the above conclusions is, but manifestative that the suit lands were declared to become vested in the Gram Panchayat concerned, and, with a concomitant corollary thereof, that thereovers there is no vestige of right, title and interest, qua the plaintiffs in the civil suit(s).

13. The verdicts made (supra) by this Court were challenged before the Hon'ble Apex Court, through the filing of an SLP. However, the said SLP was dismissed as withdrawn.

14. Thereafter, the review application(s) filed against the

verdicts (supra), also became dismissed by this Court.

15. Resultantly, thereby the declaration made by all the jurisdictionally competent Courts, statutory authorities and also by the Hon'ble Apex Court whereby the disputed lands were declared to become vested in the Gram Panchayat concerned, thus do acquire binding and conclusive effect.

16. Necessarily, thereby, when the lands in the instant RSAs are similar to the lands in the (supra) previous litigations besides when the parties in the previous litigations are similar to the parties in the instant RSA, thereby, the previous conclusive and binding decisions, but create thereby the statutory bar of constructive res judicata, rather against the institution of subsequent theretos civil suit(s), thus at the instance of the plaintiffs who are the appellants before this Court.

17. Though the said estoppel created by the statutory norm of constructive res judicata, may have been well attempted, to become relieved or its exacting vigor may have become diluted, but only in the event of there being no judicial empowerment in the statutory authorities, thus to decide the question of title as became raised before them.

18. Moreover, if the said judgments were a sequel of active *Suppressio Veri* or *Suggestio Falsi* becoming practiced upon the statutory authorities or upon this Court besides upon the Hon'ble Apex Court, thereby, all the verdicts (supra) made on the motions laid respectively before all the statutory authorities and or before this Court besides before the Hon'ble Apex Court, thus, would become rendered void or non est. However, no such evidence exists on record.

struck nor evidence has been returned thereons.

19. Resultantly for wants of availability of exceptions (supra), to the applicable thereons statutory norm of constructive *res judicata*, thereby the plaintiffs became completely precluded to rather agitate before any learned Civil Court, thus any contention/argument in respect of previous judgments (supra), rather not carrying the apt conclusive and binding effect. Resultantly, the institution of civil suit(s) (supra), thus post the renditions of binding and conclusive verdicts (supra), are manifestative, that thereby theirs being hit by the statutory norm of constructive *res judicata*.

20. Tritely, the institution of a petition under Section 13 B of the 'Act of 1961' at the instance of the plaintiffs before the Assistant Collector concerned, wherein, a declaratory relief was claimed, is co-equal, to the institution of a declaratory suit, thus under the provisions of the Specific Relief Act, 1963, before the jurisdictionally competent civil Court concerned.

21. Moreover, since the provisions of the CPC regulate the procedure for trial of the petition (supra), thereby when alike the jurisdictionally competent Civil Court, thus making trials of a civil suit, the statutory authorities seized with the suit filed under Section 13 B of the 'Act of 1961' also, on the contested pleadings raise issues, besides cast the relevant evidence adducing discharging evidence onus on the litigant concerned, whereafters' on appraisal of evidence adduced on the said formulated issues, findings are returned. Resultantly such returned findings are but conclusive and binding, especially when they become upheld even by the Hon'ble Apex Court.

22. In sequel, when the trial as made upon the petition (supra),

by the statutory authority has been done in a manner alike to trial of a suit by the jurisdictionally competent Civil Court, thereby, when there is complete adherence to the principle of natural justice besides to the provisions of the Evidence Act.

23. Consequently, thereby binding and conclusive decrees are deemed to become passed by jurisdictionally competent statutory forums, thus on a petition cast under Section 13 B of the 'Act of 1961', petition whereof is alike a civil suit becoming instituted before the jurisdictionally competent civil Court, and which requires, as tenably done recourses being made to the procedural mechanism, as required to be adopted by the jurisdictional civil Court while entering upon a trial of a civil suit.

24. In other words, when the provisions of the CPC and the provisions of the Evidence Act, thus respectively regulate the adoptions of procedure for trial being made, upon, the apposite declaratory suit, and, the mode of proof. Therefore, especially when neither any special regulatory procedure in respects thereof, is contemplated in the special statute (supra), besides nor when through any statutory provision carried in the special statute (supra), thus the workability of the provisions of CPC and of the Evidence Act, rather becomes ousted. Resultantly thereby both the CPC and the Evidence Act, respectively, regulate the procedure for trial of a petition under Section 13 of the 'Act of 1961' becoming laid before the contemplated therein authorities, and, the parameters relating to adductions of both relevant and admissible evidence.

25. Since both statutes (supra) do become adhered to, in nutshell, binding and conclusive effect is acquired by the decisions

made by the statutory authorities concerned.

26. Furthermore, binding and conclusive effect is also acquired by the decisions made by this Court, on the writ petitions (supra) also by the Hon'ble Apex Court, whereby there is a declaration vis-a-vis the disputed lands vesting in the Gram Panchayat concerned.

Final Order of this Court.

27. In aftermath, this Court finds no merit in the RSAs and the same being devoid of any merit are dismissed.

28. The verdict passed by the learned First Appellate Court is maintained and affirmed.

29. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

20.02.2024

kavneet singh

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