

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4833-2019 (O&M)
Date of Decision:-**02.05.2024**

Partap Singh and Others

... Appellants

Versus

Gram Panchayat and Others

... Respondents

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CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

-. -

Argued by :- Mr. Prateek Sodhi, Advocate
for the appellants.

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RITU TAGORE, J.

CM-13783-C-2019

1. Heard on the application, for condonation of delay of 59 days in
refiling the appeal.

2. Based on the reasons outlined in the application, supported by
an affidavit of Satnam Singh, one of the plaintiffs, the application is allowed
and delay of 59 days in re-filing the appeal is condoned.

RSA-4833-2019 (O&M)

1. Appellants/plaintiffs and proforma respondents No.2 to 4, have
been non-suited by learned Courts below, preferring this Regular Second
Appeal.

2. For the sake of convenience, the parties shall be referred to as per their status before the learned trial Court.

3. The relevant facts for adjudicating the present appeal are that plaintiffs instituted a civil suit bearing No.3205 of 2015 titled as *Partap and others vs Gram Panchayat, Bundala* against the defendant-Gram Panchayat of village *Bundala*, claiming to be declared as owners in possession of land measuring 90 kanals 13 marlas situated within the revenue estate of village *Bundala* (the suit land), as detailed in the head note of the plaint and mentioned in *Jamabandi* for the year 2010-11, and correction of the revenue record in their names as owners, alongwith the relief of permanent injunction, restraining the defendant from interfering into their peaceful possession in respect of the suit land, in any manner whatsoever.

4. The plaintiffs claimed that the suit land was purchased by them from previous owners after due verification of the revenue record vide registered sale deeds dated 03.07.1980, 07.06.1979, 07.06.1977, 07.02.1977 and 06.06.1977 for valuable consideration. The predecessors-in-interest of their vendors were recorded as owners in possession of the suit land much prior to commencement of The Punjab Village Common Lands (Regulation) Act, 1961. The plaintiffs claimed that they obtained physical possession of the suit land from their vendors and since then they have been in cultivating possession of the suit land as owners.

5. The plaintiffs further pleaded that suit land was cultivated by their vendors for their personal use and benefits. It was neither used for common purposes and benefits of the village, nor it was ever allotted or reserved for

common purposes. The defendant never enjoyed the possession of the suit land. The revenue authorities illegally entered the name of the defendant in the revenue record (*Jamabandi*), without any basis. Therefore, said entries are void *ab initio* and not binding on them. The names of the plaintiffs and their predecessor-in-interest are shown in column No.5 of *Jamabandi* entries. They have been in continuous possession of the suit land and requested the defendant to admit their claim, but the defendant refused, which necessitating them to file the suit seeking the aforesaid reliefs.

6. The defendant-Gram Panchayat, upon receiving notice, appeared and filed the written statement, pleading non-maintainability of the suit on the ground being barred by rule of *resjudicata*. The defendant claimed that petition filed by the plaintiffs in the Court of Divisional Deputy Director, Rural Development and Panchayat-cum-Collector under Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961, for a decision on the question of title of the suit land, was dismissed against the plaintiffs, and defendant was held as the owner of the suit land. The appeal preferred by plaintiffs before Commissioner was also dismissed. The defendant filed an eviction application against the plaintiffs, which was allowed, resulting in their eviction from the suit land. The defendant denied that plaintiffs are *bona-fide* purchasers of the suit land and also challenged the validity of the sale deeds set up by the plaintiffs. The defendant denied the claimed possession of the plaintiffs on the suit land.

7. From the pleadings of the parties, learned trial Court framed the issues and called the parties to present their evidence. The parties led their evidence as detailed in the judgment of the learned Courts below. Upon

appraisal of the evidence, learned trial Court dismissed the suit of the plaintiffs. The first appeal preferred by the plaintiffs was also dismissed, leading to filing of the instant appeal.

8. I have heard the learned counsel for the appellants and gone through the paper-book, photocopy of the pleadings; and evidence placed on record by the learned counsel for the plaintiffs; and finds no scope of interference in the well-reasoned findings recorded by the Courts below based on sound application of both oral and documentary evidence for the reasons recorded below.

9. Plaintiffs brought a suit claiming them to be declared as owners in possession of the suit land, having purchased it through the sale deeds detailed in the plaint. However, both the Courts below, upon appraisal of the evidence, categorically observed that plaintiffs failed to present the sale deeds to support their oral account. It was further held that the revenue entries i.e. Khasra Girdauri (Ex.P1) and Jamabandi (Ex.P2) also failed to substantiate the plaintiffs' claim, as the revenue entries do not record the names of the plaintiffs in the ownership column; instead records Gram Panchayat, the defendant, as owner of the suit land. The learned counsel for the appellants has failed to assail the above findings of facts recorded by the Courts below by pointing any evidence to the contrary or proving them factually wrong.

10. The plaintiffs have asserted their possession on the suit land since their purchase in 1977-79 and 1980. However, revenue record ie. Khasra Girdauri (Ex P1) and *Jamabandi* (Ex. P2) relied by the plaintiffs do not

establish their cultivating possession as owners on the suit land. In contrast, copies of orders Ex. D1 to Ex. D4, provided by defendant proves that the petition preferred by plaintiffs under section 11 of the Village Common Land (Regulation) Act 1961 claiming their title over the suit land was dismissed and appeal preferred by them was also dismissed.

11. Plaintiff-Partap Singh (PW-1) and Kartar Singh (PW-2) in their statements admitted that they never filed any application for correction of revenue record in their names. They also admitted for not adducing on record the sale deeds to prove their claim of purchasing the suit land and their cultivating possession on it. However, they acknowledged, prior litigation with Gram Panchayat, the defendant over the suit land, which they lost. Based on these material admissions, the plaintiffs failed to substantiate their claim to be in cultivating possession on the suit land as owners. Learned Courts below, thus, rightly considered the evidence and ruled against the plaintiffs.

12. Furthermore, it is settled position of law that civil Court has no jurisdiction to entertain the suit regarding the issue of vesting or non-vesting of the property in Gram Panchayat. The adjudication of such issue falls within jurisdiction of revenue Courts, as clearly delineated in Section 13 of Village Common Land (Regulation) Act 1961, which is reproduced hereinbelow:-

13. Bar of Jurisdiction in Civil Courts:-

No civil court shall have jurisdiction:-

(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not

Shamilat deh vested or deemed to have been vested in a Panchayat under this Act ; or

(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act, or

(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine].

13. The perusal of the above Section would indicate that the jurisdiction of civil Court is barred in respect of any matter, which any Revenue Court, Officer or Authority is empowered by or under the Act to determine the issue as delineated in the Section *ibid*. As noticed above, the petition filed by plaintiffs under Section 11 of Village Common Lands (Regulation) Act, 1961 seeking title in suit land has already been ruled against them and in favor of defendant-Gram Panchayat, as evident from the orders Ex.D1 to Ex.D4. Thus, the claim of the plaintiffs over the suit land as owners is clearly not maintainable against Gram Panchayat being also barred by principle of *res-judicata*.

14. The learned counsel for the plaintiffs has failed to point out any misinterpretation or misreading of any piece of evidence by the Courts below, for drawing an inference of clear conclusions against the plaintiffs holding them not entitled to the relief.

15. In view of the above discussion, it is held that findings recorded by learned Courts below are legal and valid, same are upheld, and requires no interference by this Court. There are no substantial question of law involved in this appeal. Accordingly, same is hereby dismissed.

16. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

02.05.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No