

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****RSA-794-2021 (O&M)****Date of decision: 10.09.2025****Parveen Kumar****...Appellant(s)****Vs.****Gram Panchayat Village Dhons and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vikram Singh, Advocate and
Mr. Abhinav Sood, Advocate for the appellant.

Mr. Priyavrat Parashar, AAG, Haryana.

NIDHI GUPTA, J.

Present second appeal has ben filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the appellant for declaration and permanent injunction, has been dismissed by both the Courts below.

2. It is the case of the plaintiff that the suit land which comprised of a pond was leased out to the plaintiff in an open auction for an amount of Rs.75,000/-p.a. for a period of 8 years from 13.05.2016 upto 12.05.2024. It is submitted by learned counsel for the plaintiff that one Pawan Kumar with malafide intent, had made a complaint to Deputy Commissioner and stated that he is willing to purchase the lease @ Rs.2 lakhs per annum. It is submitted that accordingly lease of the plaintiff was cancelled by the Deputy Commissioner, Kaithal vide order dated 18.05.2016.



3. Learned counsel contends that the said order was prima facie not maintainable as the same was issued without notice to the appellant and without giving any opportunity of hearing to the plaintiff. Even no order was passed regarding refund of the lease amount of Rs.75,000/- deposited by the plaintiff, nor was any compensation given for the loss suffered. Learned counsel further contends that as per Section 10A(2) and (3) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "PVCL Act"), only Collector has power to cancel the lease after giving opportunity of hearing to the lessee. In the present case, the said provision has been given the complete go by. Clearly, the Deputy Commissioner had no power to pass the order dated 18.05.2016 nor was any opportunity of hearing given to the appellant. However, learned Courts below have utterly failed to take into consideration the above facts; and have therefore, erred in passing the impugned order.

4. Learned counsel for the respondents controverts submissions made on behalf of the appellant and submits that first and foremost, suit filed by the appellant is not maintainable as jurisdiction of the Civil Court is barred under Section 13 of the PVCL Act. It is further submitted that if the appellant is aggrieved of the order of the Deputy Commissioner, the appellant has the remedy of filing the appeal; however, the plaintiff has not filed any such appeal before the competent authority. As regards the validity of order dated 18.5.2016, it is submitted that the Deputy Commissioner has the power to pass an order for the welfare of the Gram



Panchayat. It is accordingly submitted that the impugned judgments suffer from no error and therefore, the present Appeal deserves to be dismissed.

5. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant/plaintiff.

6. It has been contended by learned counsel for the appellant that under Section 10-A of the PVCL Act, only Collector has a power to cancel the lease after giving opportunity of hearing. In the present case, order dated 18.05.2016 (Ex.P2) has been passed by the Deputy Commissioner, who is an authority higher than the Collector. As such, it cannot be said that the order dated 18.05.2016 suffers from any jurisdictional error. Furthermore, admittedly, plaintiff has failed to file any Appeal/Revision against the order dated 18.05.2016 (Ex.P2), which is the most efficacious remedy available to the appellant under the PVCL Act; and has straight away filed the instant suit, which is also not maintainable under the Act. Plaintiff further failed to issue notice under Section 205 of the Haryana Panchayati Raj Act, 1994 prior to filing of the present suit.

7. Moreover, it is relevant to note that in the present case, the Deputy Commissioner had passed the order dated 18.5.2016 in the interest of the Panchayat as it is admitted case that the higher bid was received from Pawan Kumar in respect of the suit land. The Deputy Commissioner had passed the order dated 18.05.2016 (Ex.P2) after considering the affidavit filed by Pawan Kumar; wherein it was stated that Pawan Kumar was willing to take the suit property on lease @ Rs.2 lakhs per annum. Thus,



the said order was passed in the interest and benefit of Gram Panchayat. In any event, admittedly, the bid given by the plaintiff on 13.05.2016 is not shown to have been approved by Director of Panchayat.

8. Learned counsel for the plaintiff has also been unable to show this Court as to how the suit was maintainable in view of the fact that the suit land is Gram Panchayat land. The relevant findings/reasoning of the learned District Judge, Kaithal are contained in para 12 of the judgment dated 20.11.2019, which reads as under:-

“12. On critically analyzing the above provision; it is fairly deciphered that section 13 (b) and section 13 (c) answer the poser put to this court. Had there been any illegality or irregularity in passing of order dated 18.5.2016-Ex.P2; appellant-plaintiff did have legal remedy available to him before the higher revenue authorities. If Deputy Commissioner has usurped the power of Assistant Collector First Grade, while ordering for re-auction of suit property and as a legal consequence, statutory right of first appeal available to plaintiff-appellant, as provided under section 10-A (7) of the Act, has been curtailed, then also, plaintiff-appellant could have highlighted his grievance before the Commissioner, Financial Commissioner etc., by resorting to appropriate legal remedy. In opinion of this court, this suit is legally not maintainable in view of express bar provided under section 13 (b) and 13 (c) of Punjab Village Common Land Act, 1961 (applicable to Haryana), of section 13.”

9. In this situation, it would be apposite to refer to a Division Bench judgment of this Court in **Sajjan Singh vs. State of Haryana (Punjab and Haryana)(DB):Law Finder Doc Id # 634313**; wherein, it is held that: -



“7. Under Section 10-A of Act, the Collector has the power to call for the record of any lease, contract or agreement entered into by the Panchayat in respect of any land vested in the panchayat. The Collector after calling for the record has to examine it for the purpose of satisfying himself as to the legality or propriety of such lease, contract or agreement. After examination of the record, if the Collector satisfies himself that such lease, contract or agreement has been entered into in violation of any of the provisions of the Act or there has been fraud or concealment of facts or is detrimental to the interest of the Panchayat, the Collector shall have the authority to cancel the lease, contract or agreement.

8. In the present case, the petitioners can always challenge the auction by seeking intervention of the Collector under the provisions of Section 10-A of the Act. The Collector may take action after examining the record and set aside the auction if he is satisfied that any of the conditions, spelt out in Section 10-A of the Act have been violated. This legal remedy is available to the petitioners but it is for the petitioners to enforce the remedy but this cannot be done through this petition. The petitioners may approach the Collector under Section 10-A of the Act.” (Emphasis added)

10. Similar view has been taken in **Jarnail Singh vs. Director Rural Development and others, (P&H)(DB): Law Finder Doc Id # 118992.**

11. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings and/or legal position.



12. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.
13. Pending applications, if any, stand disposed of.

10.09.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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