



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

**RSA No.1259 of 2021
Date of Decision : 09.12.2025**

Anil and another

....Appellants

Versus

Ram Karan

.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. U.K. Agnihotri, Advocate,
 Ms. Anshul Agnihotri Advocate and
 Mr. Anuj Y. Attri, Advocate
 for the appellants.

 Mr. Vikas Gulia, Advocate
 for the respondent.

PANKAJ JAIN, J. (Oral)

Defendants are in appeal.

2. For convenience, the parties hereinafter are referred to as by their original position before the Court of First Instance i.e., the appellants as defendants and the respondent as plaintiff.

3. Plaintiff filed a suit seeking decree of declaration to the effect that the Sale Deed bearing No.6051, dated 01.02.2010 executed by defendant No.2 in favour of defendant No.1 *qua* area to the extent of portion KIHJ shown in red colour in the site plan attached to the plaint, is wrong, illegal, null and void and is not binding on the rights of the plaintiff.



Plaintiff further prayed for injunction against the defendants from raising construction over the encroached portion of land.

4. As per plaintiff, he is owner in possession of plot/house bearing No.928 as an allottee under Panchayat. Plots bearing Nos.929 and 930 were allotted to defendant No.2 and defendant No.3, respectively with 15 ft. vide public street reserved for common use. Both defendant No.2 and defendant No.3, sold their respective plots in favour of defendant No.1. Defendant No.2 sold an area in excess of that allotted to him by the Panchayat.

5. Suit was contested by the defendants. As per defendants, father of defendant No.1 filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, against the plaintiff seeking removal of encroachment made by the plaintiff on the public street. The present suit is a counter-blast to the same. As per the defendants, it is the plaintiff, who has encroached upon disputed portion of the street on the eastern side of his house. Defendant No.2 was in peaceful possession of the disputed plot since the time of his fore-fathers and, vide impugned sale deed, has transferred the same in favour of defendant No.1, who is in established possession thereof.

6. Suit filed by the plaintiff was put to trial by the Court of the First Instance, framing following issues:

- “1. Whether plaintiff is entitled to a decree for declaration as prayed for? OPP.



2. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for? OPP.
3. Whether the plaintiff is entitled to a decree for mandatory injunction as prayed for? OPP.
4. Whether the suit of plaintiff is not maintainable in its present form? OPD.
5. Whether the plaintiff has concealed true and material facts from this Court? OPD.
6. Whether the plaintiff has no locus-standi to file the present suit? OPD.
7. Whether this Court has no jurisdiction to try and entertain the present suit? OPD.
8. Whether the suit is bad for non-joinder of necessary party? OPD.
9. Whether the plaintiff has no cause of action to file the present suit? OPD.
10. Whether the suit has not been properly valued for the purposes of court fee and jurisdiction? OPD.
11. Relief.

7. The Court of First Instance relied upon Section 13 of the Punjab Village Common Lands Act, as applicable to the State of Haryana, held that questions regarding title of the Panchayat land cannot be adjudicated by Civil Court, and thus, the jurisdiction of this Civil Court is barred from entertaining the suit in question.

8. Unsuccessful plaintiff filed appeal.

9. The same has been allowed by the Lower Appellate Court.

10. Ld. Counsel for the appellants has assailed the findings recorded by the Lower Appellate Court. It has been contended that the Lower Appellate Court has relied upon Field Book to hold that the area sold



to defendant No.1 is in excess of the area of plot. The original Field Book having not been produced before the Courts below, the Lower Appellate Court erred in relying upon the Field Book to hold that the sale deed *qua* excess area in favour of the appellant, is bad.

11. I have heard counsel for the appellant and have carefully gone through records of the case.

12. The allotment by the Panchayat in favour of the plaintiff, defendant No.2 and defendant No.3 w.r.t. Plot No.928, Plot No.929 and Plot No.930 respectively, are not in dispute. It is also not in dispute that plot No.929 allotted in favour of defendant No.2 measured 183.33 Sq. Yards. However, in the impugned sale deed, bearing document No.6051 dated 01.02.2010 (Exhibit D-1), the dimensions of the Plot No.929 are recorded as East-14 ft., West-46 ft., South-90.9 ft. and North-99 ft.

13. Counsel for the appellants does not dispute that if the area is calculated as per the dimensions given herein-above, the same comes out to be 315 Sq. Yards. The actual dimensions of the plot allotted to defendant No.2 by the Panchayat are substantially less than the area sold by defendant No.2 to defendant No.1. As per settled law, no person can convey a title better than what is vested in him. Thus, the Lower Appellate Court rightly held that the dimensions of Plot No.929 as mentioned in the sale deed bearing No.6051 dated 01.02.2010 (Exhibit D-1) need to be ignored and defendant No.1 cannot claim area comprising Plot No.929 over and above the one allotted to defendant No.2 by the Panchayat.



15. Finding no merit in the present appeal, the same is ordered to be dismissed.

(Pankaj Jain)
Judge

Whether reportable : Yes/No