



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

(216)

RSA-3839-1999 (O&M)
Reserved on : 11.08.2025
Pronounced on:- 18.08.2025

MAGHI SINGH

... Appellant

Versus

SECRETARY PUNJAB GOVT. RURAL DEVELOPMENT AND OTHERS

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Daleep Singh, Advocate,
for the appellant.

Mr. Puru Jarewal, DAG Punjab.

VIRINDER AGGARWAL, J.

1. Suit has been filed by Maghi Ram-petitioner for declaration claiming that defendants are not entitled to recover the loan amount on the basis of order dated 27.06.1988, 27.09.1989 and the orders are illegal, null and void and further, plaintiff is entitled to recover Rs.10,000/- which has been recovered from the plaintiff under the fear of arrest and for consequential relief of permanent injunction restraining the defendants from affecting recovery of amount of Rs.4,450/-, 4,000/- and 14787.64/- on the allegations that plaintiff was Village Sarpanch. He was involved in a false case of murder on 17.11.1985. He was acquitted vide judgment dated 09.10.1987. After his arrest, a false inquiry was initiated against him and he was suspended on 31.01.1986. He was not given opportunity to defend himself and was wrongly proceeded against ex parte in his absence. Record of Gram Panchayat Ubha was taken away in the absence of plaintiff, when he was in jail. It was further alleged that no recovery was found against the plaintiff. He is not liable to pay any amount to the defendant-department. He filed appeal against impugned order dated 27.06.1988



but the appeal was rejected vide order dated 27.09.1989 and on 24.01.1990, defendants by making threat to the plaintiff that he would be sent to jail was made to deposit Rs.10,000/- forcibly. He is entitled to recover the same.

2. Notice was served upon the defendants. Defendants No.1 and 2 choose not to contest the suit. Defendants No.3 to 5 contested the suit by filing written statement raising preliminary objections that plaintiff has no cause of action, locus standi to file the present suit. Suit is barred by limitation. Civil Court has no jurisdiction and on merits, it was alleged that inquiry was conducted with regard to wastage and misapplication of Panchayat funds against the plaintiff and he was found guilty and impugned order was passed as per rules and he was given proper opportunity to defend. In replication, plaintiff denied the allegations of the written statement and reiterated averments of the plaint. From the pleadings, following issues were framed:-

1. Whether order dated 27.06.1988 passed by defendant No.2 and order dated 27.09.1989 passed by Joint Secretary Village Development Panchayat Department, Chandigarh ordering recovery of Rs.4450/-, Rs.4000/- and Rs.14787.64p as alleged in the plaint are illegal, null and void qua rights of plaintiff? OPP.
2. Whether the plaintiff is entitled to get back Rs.10,000/- already deposited by him with defendants as alleged? OPP.
3. Whether the plaintiff has got no right or cause of action to file the present suit? OPD
4. Whether suit is not maintainable in the present form? OPD.
5. Whether the suit has been filed without serving notice upon the defendant, if so its effect? OPP.
6. Whether this Court has no jurisdiction to try the present suit? OPD
7. Whether the suit is within time? OPP.
8. Whether defendants are entitled to special costs u/s 35-A, CPC? OPD.
9. Relief.



3. Both the parties were granted to lead evidence and after hearing arguments, the learned Civil Judge, Mansa decreed the suit.

4. Aggrieved against the judgment and decree so passed, Gram Panchayat, Ubha preferred first appeal. The same was allowed by learned Additional District Judge, Mansa. Now, appellant-plaintiff is in appeal before this Court. Notice was served upon respondents-defendants.

5. Record was requisitioned.

6. Arguments heard.

7. Counsel for the appellant/plaintiff argued that the findings recorded by the learned First Appellate Court while reserving the well-reasoned judgment and decree passed by learned Civil Judge are not sustainable. It is not denied that recovery can be imposed upon the plaintiff as per the procedure prescribed under Section 105 of Gram Panchayat Act and the learned Civil Judge has rightly observed that procedure as prescribed under Section 105 of Gram Panchayat Act was not followed and no proceedings were conducted under Section 105 of Gram Panchayat Act, so the impugned orders are not sustainable. The learned First Appellate Court has recorded the findings that the outstanding amount of loss and misappropriation is being recovered in accordance with the provisions of Section 105 of Gram Panchayat Act, 1952 read with Section 85 of the said Act and findings recorded by the learned Civil Judge were set aside without having on record any such procedure being adopted by the Gram Panchayat, so impugned judgment and decree be set aside.

8. Learned State Counsel pointed out that in the present case, there was no necessity for adopting the procedure as prescribed under Section 105 of Gram Panchayat Act as the liability was imposed in view of the agreement between Gram Panchayat and plaintiff dated 14.01.1990, which is Exhibit D1.



9. Record of the case clearly shows that no procedure as required under Section 105 of Gram Panchayat Act was followed by the defendants while imposing recovery upon plaintiff and as regards Agreement (Exhibit D1) is concerned, it is the case of the appellant/plaintiff that the agreement was got signed from him while putting him under fear of arrest. DW1 examined by the defendants has stated in examination-in-chief itself that Maghi Singh was got arrested by BDPO with regard to dues pending against him and writing (Ext.D1) was scribed at that time and Rs.10,000/- was got deposited from the plaintiff. In view of this testimony of DW1 in examination-in-chief itself, it is clear that Ext. D1 document is not executed by appellant/plaintiff freely, rather his consent was obtained by putting him under coercion. Learned Civil Judge has rightly recorded that Ext. D1 was got executed by putting him under fear and threat and that unless and until liability of the plaintiff is not worked out according to the procedure laid down under Section 105 of Gram Panchayat Act, no recovery from the plaintiff can be effected, so record shows that the learned First Appellate Court has misread the evidence and has wrongly set aside the well reasoned judgment of learned Civil Judge, Mansa, so, in these circumstances, the judgment and decree passed by First Appellate Court is not sustainable.

10. In view of the above, appeal of the appellant is allowed and judgment and decree passed by First Appellate Court is set aside and that of the learned Civil Judge, Mansa is restored.

11. Pending miscellaneous application(s), if any, are also disposed of accordingly

18.08.2025
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

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