

(122) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2648-2026

Date of Decision: 23.03.2026

RAM DASS AND ANOTHER

...Petitioners

Vs.

MANGAL SINGH AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. R.S. Chauhan, Advocate
for the petitioners.

VIRINDER AGGARWAL, J. (Oral)

1. The present Civil Revision Petition has been filed challenging the order dated 29.09.2025 passed by the learned Civil Judge (Junior Division), Mukerian, whereby the application filed under Order VII Rule 10 of the Code of Civil Procedure, 1908, seeking return of the plaint, was dismissed.

2. Briefly stated, the respondents/plaintiffs instituted a suit seeking a decree of mandatory injunction directing the defendants/petitioners to remove the alleged encroachment from a village common passage, which has been fully described and detailed in the head note of the plaint. They further sought a decree of permanent injunction restraining the defendants from causing any further obstruction in the remaining portion of the passage. It was asserted that the suit property is a *gair mumkin passage*, reserved for the common use and enjoyment of the villagers. The petitioners/defendants appeared and contested the suit by filing a written statement. Thereafter, they moved an application under Order VII Rule 10 of the Code of Civil Procedure, 1908, seeking return of the plaint on the ground that the Civil Court lacks jurisdiction to entertain the suit. It was contended that the suit property constitutes a public passage

forming part of *shamlat deh* land, owned by *mustarka malkaan hasad rasad khewat*, and thus falls within the ambit of the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. It was further pleaded that, in view of Section 13-B of the said Act, the jurisdiction of the Civil Court is expressly barred. Upon consideration of the matter and after hearing the parties, the learned Civil Judge (Junior Division) dismissed the application vide the impugned order. Being aggrieved by the said order, the present Civil Revision Petition has been filed.

3. I have heard counsel for the petitioner and have gone through the paper-book carefully.

4. Learned counsel for the petitioner contended that the suit property in question constitutes *shamlat deh* land, and therefore, the jurisdiction of the Civil Court is barred in view of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961. It is submitted that, in light of the statutory bar, the dispute relating to the nature and ownership of the land cannot be adjudicated by the Civil Court, and the appropriate forum for determination of such issues lies with the competent authority under the Act, i.e., the Commissioner exercising jurisdiction under the relevant provisions.

5. In support of the aforesaid contention, reliance has been placed upon the judgment of this Court in *Bhim Singh v. Gram Panchayat of Village Kharkheri*, 1983 A.I.R. (Punjab) 415, wherein it has been held that, '*as earlier observed under Section 13 of the Act, a Civil Court has been debarred from not only entertaining a suit but also from adjudicating upon any question relating to the shamlat nature of the land. In case the appellate Court, which is a civil court is allowed to determine the controversy one way of the other,*



then it would be permitting the civil court to determine and adjudicate upon a matter on which it has no jurisdiction. This is not legally permissible’.

6. In the present case, the respondents/plaintiffs do not dispute that the suit property forms part of *shamlat deh* land, nor do they contend that it has not been reserved for the common use of the villagers. Rather, their specific case is that the suit property is a *gair mumkin passage* reserved for the common use and enjoyment of the residents of the village, and that the defendants/petitioners have caused obstruction and encroachment over the said passage. On the other hand, the petitioners/defendants, while filing their written statement, have not specifically denied the character of the suit property as a common passage. However, they have taken the plea that no encroachment, as alleged, has been made over the suit land.

7. The learned Civil Judge, while passing the impugned order, distinguished the judgment relied upon by the petitioners in *Jai Parkash v. Ram Narain*, RSA-1666-2007, decided on 03.12.2009, on the ground that the issue involved therein pertained to eviction proceedings initiated by the Panchayat under Section 7 of the Act, whereas in the present case, the dispute is purely civil in nature, relating to removal of obstruction from a public passage.

8. The learned trial Court further placed reliance upon the judgment of this Court in *Mir Singh v. Sajjan Singh*, RSA-227-1998, decided on 13.02.2001, wherein it has been held that a civil suit between private individuals seeking removal of obstruction from a passage is maintainable and is not barred merely on the ground that the passage is described as a public passage. Additionally, reliance was placed upon the judgment in *Mohd. Ashraf*



v. Mohd. Razak and another, CR-5096-2024, decided on 05.09.2025, wherein the appointment of a Local Commissioner in a suit for mandatory injunction regarding alleged encroachment over a street was upheld, and it was reiterated that Civil Courts are competent to entertain and adjudicate such disputes.

9. It was, thus, observed that the reliance placed by the defendants on Provisions of the Punjab Village Common Lands (Regulation) Act, 1961 would not oust the jurisdiction of the Civil Court where the dispute essentially pertains to obstruction of a passage and gives rise to civil consequences between private parties. At this stage, it is necessary to examine the provisions of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961. The said provision bars the jurisdiction of Civil Courts to entertain or adjudicate upon any question as to whether any land or immovable property is or is not *shamlat deh*, or whether any such land vests or does not vest in the Panchayat under the Act. It further bars Civil Courts from adjudicating upon any matter in respect of which any revenue court, officer, or authority is empowered under the Act to determine or decide such issues, including the legality of any order passed by such authority.

10. The present suit for mandatory injunction does not involve any challenge to the right, title, or interest of the Gram Panchayat in the suit property. Nor does it assail any order passed by a competent authority under the Punjab Village Common Lands (Regulation) Act, 1961, or pertain to any matter which falls within the exclusive domain of any authority empowered under the said Act. Significantly, there is also no dispute raised by the parties with regard to the nature or character of the suit property. The dispute is essentially confined to the alleged obstruction of a passage, which is stated to



be meant for the common use and enjoyment of the villagers, and the relief sought is limited to removal of such obstruction and restraining further interference. In such circumstances, the bar of jurisdiction under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 cannot be inferred merely on the ground that the suit has been instituted by private individuals seeking a decree of mandatory injunction for removal of obstruction from a passage. The jurisdiction exercised by the learned Civil Judge, therefore, cannot be said to be arbitrary, illegal, or without authority of law so as to warrant interference in revisional jurisdiction. No jurisdictional error or material irregularity is made out in the impugned order. Accordingly, no ground is made out for interference by this Court.

11. For the reasons recorded hereinabove, no interference is warranted in the impugned order passed by the learned Civil Judge (Junior Division). The same does not suffer from any illegality, perversity, or jurisdictional error. Accordingly, the present Civil Revision Petition is dismissed.

(VIRINDER AGGARWAL)
JUDGE

23.03.2026

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