

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****213****RSA-945-2014 (O&M)****Date of decision: 27.01.2026****Ran Singh****...Appellant(s)****Vs.****Gram Panchayat of Village Chhichhrana****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ishnoor Singh, Advocate and
Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Neeraj Kumar, Advocate for
Mr. Ashish Pannu, Advocate
for the respondent.

NIDHI GUPTA, J.**CM-2161-C-2014**

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 42 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by an affidavit of the applicant/appellant, the same is allowed
and delay of 42 days in refiling the appeal is condoned.

RSA-945-2014 (O&M)

Plaintiff is in Second Appeal against the concurrent
judgments and decrees of the learned Courts below; whereby suit filed by

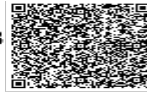


the appellant for permanent injunction, has been dismissed by both the Courts.

2. It is *inter alia* submitted by learned counsel for the appellant that learned Courts below were in patent error in denying permanent injunction to the appellant as there is concurrent categoric finding of fact by both the Courts below that plaintiff is in possession of the suit land. Learned counsel argues that in a suit for permanent injunction only possession is to be seen and title of the appellant was not in question. It is submitted that in view of the admitted fact that the plaintiff is in actual and physical cultivating possession of the suit land and has been paying water cost/Tavan to the Canal Department, injunction could not have been denied to the appellant.

3. Learned counsel for the appellant further submits that the courts below were in patent legal error, while holding that the suit is not maintainable before the Civil Court. It is argued that the injunction suit is maintainable, whereas, the declaration suit is barred under section 13 of the Punjab Village Common Land Act. Thus, jurisdiction of Civil Court is not barred as per the provision of section 13 of the Punjab Village Common Land Act with regard to granting of injunction.

4. It is submitted that therefore, the plaintiff could not have been denied injunction and could not have been dispossessed except in due course of law. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.



5. *Per contra*, learned counsel for the respondent vehemently opposes submissions made on behalf of the plaintiff and submits that the suit land in the present case is shamlat in nature. As such, jurisdiction of Civil Court is barred under Section 13 of the Punjab Village Common Lands Act. It is submitted that therefore, judgments of the learned Courts below suffer from no error, and the present appeal deserves to be dismissed.

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

7. Perusal of the record of the case shows that right since the inception, it is the pleaded case of the appellant/plaintiff that he is in a physical and cultivating possession over the suit land measuring 31K 4M vide Jamabandi for the year 2002-2003. It is undisputed fact on record that the plaintiff's rights in the shamilat Thola Hukmi were confirmed by the Civil Court vide judgment and decree dated 11.06.2007 and affirmed in Civil Appeal. Plaintiff also proved on record that he is paying water cess to the Canal Department in respect of the suit land which is being cultivated by him. Possession of the plaintiff over the suit property is also proved from khasra girdawari Ex.P3. Accordingly, in view of the above facts, Trial Court in para 18 of its judgment dated 07.02.2011 has noted as follows: -

"18. The plaintiff has failed to place on file the consolidation record in order to prove as to for what particular purpose land was reserved. His own documentary evidence, copy of jamabandi Ex.P2 for the year 2002-2003, to which the presumption of truth is



attached, records the nature of suit land as 'Charand'; therefore, it is clear that it is reserved for the common purposes of the village. Though plaintiff has been proved to be in possession of the suit land, yet his mere possession is not sufficient to confer upon him the ownership rights, though his suit is for permanent injunction yet in real sense, he is seeking the relief of declaring his owner. Thus, incidentally, the question of ownership has also cropped up in this case. In paras no.5 and 9, the plaintiff has claimed himself to be owner in possession and has denied the ownership of the defendant. Thus, it is rightly argued by learned counsel for defendant that a question has cropped up with the civil court as to whether or not the suit land vests in the Gram Panchayat; therefore, the bar of the jurisdiction of Section 13 of the Act will come into play. At this juncture, it will be worthwhile to reproduce Section 13 of the Act:-

"13. Bar of jurisdiction No Civil Court shall have jurisdiction -

a) To entertain or adjudicate upon any question whether

I. Any land or other immovable property is or is not shamilat deh;

II. Any land or other immovable property or any right, title or interest in such land or other immovable property vests or does not vest in a Panchayat under this Act;

b) In respect of any matter which any revenue court, officer or authority is empowered by or under this Act to determine; or

c) To question the legality of any action taken or matter decided by any revenue court, officer or authority empowered to do so under this Act".



8. The said findings have been confirmed by the learned First Appellate Court in its judgment dated 31.08.2013 holding that although in judgment dated 11.06.2007 Ex.P1, the plaintiff was held to be owner in possession of the suit property and that respondent/defendant Gram Panchayat had no right to dispossess the plaintiff from the suit property. Yet, as the suit land was recorded as “Charand” in the Jamabandi for the year 2002-2003 Ex.P2, therefore, the suit land is reserved for common purposes of the village and shamlat land and therefore, the jurisdiction of Civil Court is barred.

9. However, the said reasoning of the learned Courts below is unsustainable as this Court in **Udey Singh vs. Gram Panchayat Nangal Jat (P&H): Law Finder Doc Id# 208309** has held that in respect of shamlat land, jurisdiction of Civil Court is barred where decree as owner is sought, but where it is only a suit for permanent injunction, jurisdiction of Civil Court is not barred. The relevant extract of the said judgment is as under:-

“5. Thus, the jurisdiction of the Civil Court is barred where the question involved is as to Whether the property in dispute is shamlat deh or not and the Civil Court cannot decide as to whether any right, title or interest in the said property vests or does not vests in the Gram Panchayat.

The present case is a simple suit for permanent injunction filed by the plaintiff. The plaintiff has pleaded that he was in possession of the suit property. The question of title qua the suit property is not to be decided in a suit for permanent injunction. From the ex-parte evidence led by the plaintiff, it stands established that the plaintiff is in possession of the suit property. Plaintiff has constructed his house in the



suit property. In these circumstances, the plaintiff was entitled for a decree of permanent injunction. The defendant cannot dispossess the plaintiff except in due course of law. The learned Additional District Judge had erred in allowing the appeal filed by the Gram Panchayat as the jurisdiction of the Civil Court in the present case was not barred. The substantial question of law stands answered accordingly.”

10. Similar view has been taken in **Gurdas vs. Jagdish Ram (Punjab and Haryana) :Law Finder Doc Id # 410331**. The relevant para of the said judgment is as under: -

“7. I find merit in the contention raised on behalf of the appellants. The appellants are shown to have been in possession pursuant to consolidation scheme Ex. P2 as proved by PW 5 Shingara Singh and were in possession since long period. Their possession was not unlawful. Thus, without consent of the plaintiffs, suit land could not have been exchanged with defendant No. 1 and that too without sanction of the Government as required under Rule 5 of the rules. The lower appellate court was not, thus, justified, in reversing the view taken by the trial court. Section 13 of the Act was not applicable in view of the fact that the present was a suit for injunction only to protect the possession of the plaintiffs. Substantial question of law formulated in the previous para is answered in favour of the appellants and it is held that property allotted to the non-proprietors in accordance with law could not be exchanged with any person without approval of the State Government and without consent of such non-proprietors and the suit for injunction filed by the appellants was not barred under Section 13 of the Act.”



11. It is not disputed by learned counsel for the respondent that the plaintiff/appellant is in possession of the suit property. Therefore, as the present suit was only for permanent injunction and possession of the plaintiff over the suit property is not disputed; therefore, notwithstanding the fact that the suit land is shown to be grazing pasture/Charand in the Jamabandi Ex.P-2, in terms of the above judgments, injunction could not have been denied to the appellant. As such in terms of judgment in **Rame Gowda vs. M. Varadappa Naidu (dead) by LRs and another (2004) 1 SCC 769**, vide order dated 24.09.2015, the Predecessor Bench of this Court has granted status quo in respect of the possession over the suit land.
12. Ld. Counsel for the respondent is unable to dispute or controvert the above noted factual and legal position.
13. In view of the above, present Regular Second Appeal is **allowed**; and the impugned judgments and decrees of the Courts below are set aside.
14. Pending applications, if any, stand disposed of.

27.01.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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