

(1972) 03 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 9 of 1972

Balwant Singh

APPELLANT

Vs

Gram Sabha, Behrampur Bet and Others

RESPONDENT

Date of Decision : 08-03-1972

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 16

Citation : AIR 1972 P&H 309

Hon'ble Judges : Prem Chand Pandit, J

Bench : Single Bench

Judgement

1. Balbir Singh and 7 others, residents of village Behrampur Bet, District Ropar, brought a suit against the Gram Sabha of the village through Ajmer Singh, Sarpanch of the Gram Panchayat of the said village. Karam Singh, Ram Bux and Jaimal, defendants Nos. 1 to 4, for possession of agricultural land, measuring 111 Kanals and 14 Marlas, situate in the same village by ejecting defendants Nos. 2 to 4. Their case was that the said land, was not Shamilat Deh and as such, did not vest in the Gram Panchayat. It belonged to the proprietors of the village and the defendants had taken forcible possession thereof on the ground that it had been given to them by defendant No. 1.

2. The suit was contested by defendants Nos. 2 to 4, who pleaded that the said land was Shamilat Deh and vested in the Gram Panchayat, which gave the same to them on lease. Ajmer Singh, Sarpanch, however, admitted the claim of the plaintiffs on behalf of defendant No. 1, because according to him, the land belonged to the proprietary body of the village.

3. During the pendency of the suit, an application was moved under Order 1, Rule 10, Code of Civil Procedure, by Arjan Singh and 4 others, who alleged themselves to be the Panches of the Gram Panchayat, Behrampur Bet, for being added as parties to the suit. Their case was that the Sarpanch was one of the proprietors of the village and, therefore, his interests were identical with those of

the plaintiffs and it was because of that reason that he had admitted their claim. The applicants' prayer was that they be allowed to defend the suit, otherwise a collusive decree would be passed.

4. This application, though contested by the plaintiffs, was accepted by the trial Judge by means of his order dated 13th December, 1971. He directed that the name of Ajmer Singh be removed and the applicants be allowed to act in his place as representatives of the Gram Sabha and in that capacity, file a fresh written statement on behalf of defendant No. 1 and then contest the suit. Against this decision, the present revision petition has been filed by Balwant Singh, one of the plaintiffs.

5. It has been conceded by the counsel for both the parties that the suit of such a nature has to be filed against the Gram Sabha and not the Gram Panchayat, but it is the Gram Panchayat, the executive body of the Gram Sabha, which is authorised to defend it. The procedure for the Panchayat to defend the suit is given in Rule 16 of the Punjab Village Common Lands (Regulation) Rules, 1964, which reads:

"Procedure where a Panchayat sues or is sued in its representative capacity--(1) The Panchayat shall, by a resolution to be recorded in the Proceeding Book, appoint its Sarpanch or any other Panch to contest any suit filed by or against the Panchayat. The Sarpanch or Panch so appointed shall file a copy of the resolution duly attested by the Sarpanch under the seal of the Panchayat in the Court along with other documents.

(2) The actual expenditure incurred in the defence of the case shall be chargeable to the funds of the Panchayat.

(3) The Sarpanch or Panch so appointed shall not be competent to compound or admit claim of the party suing the Panchayat without prior authorization by the Panchayat by a resolution in writing, passed in a meeting specifically called for the purpose. If any decree or order is passed by the Court as a result of fraud, misrepresentation, concealment of facts or collusion with the opposite party, the Sarpanch or Panch shall be personally liable for the loss caused to the Panchayat."

From this rule, it is apparent that the Panchayat has to pass a resolution and appoint either its Sarpanch or any other Panch to contest the suit.

6. In the instant case, it is conceded that the Panchayat did not pass any resolution authorising Sarpanch Ajmer Singh to contest the suit. That being so, he was not authorised to file a written statement on behalf of defendant No. 1 and the one put in by him would be treated as non-existent.

7. Now the question arises whether the five applicants can be allowed to defend the suit in place of the Sarpanch. It is again admitted that no resolution has been passed by the Panchayat in their favour as well. Unless a proper resolution is there in favour of either a Sarpanch or a Panch, he cannot defend the suit. It

may be further be noticed from Rule 16(3) that even when a Sarpanch is appointed to defend the suit, he is not allowed to admit the claim of the plaintiff without the prior authorisation by the Panchayat by a resolution in writing passed in a meeting specifically called for the purpose. That also had not been done in the instant case.

8. In this view of the matter, the proper order to be passed is that nobody will be permitted to defend the suit on behalf of defendant No. 1, unless he produced a resolution to that effect, having been properly passed by the Panchayat.

9. The petition is, accordingly, disposed of. There will, however, be no order as to costs. Parties have been directed to appear before the trial Court on 3rd April, 1972, for further proceedings in the case.

10. Petition disposed of.