
(1987) 05 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1490 of 1986

Gram Panchayat Village Salem Shah

APPELLANT

Vs

Sadhu Ram

RESPONDENT

Date of Decision : 13-05-1987

Acts Referred:

Citation : (1987) 2 CurLJ 521 : (1987) PLJ 414 : (1987) 2 PLR 136 : (1987) RRR 386

Hon'ble Judges : J.V.Gupta, J

Advocate : Mr. H.S. Dhillon, Advocate., Advocates for appearing Parties

Judgement

J.V. Gupta, J.—This judgment will also dispose of RSA Nos. 1412, 1413 and 1537 of 1986 as the question involved is common in all the cases.

2. The suit giving rise to RSA No. 1490/86 was filed by the plaintiffs for a declaration to the effect that he was the lessee and the tenant on the suit land and that the defendant had no right, title or interest in the suit land, and so, could not dispossess or eject him, and, consequently, the order of the Commissioner, Ferozepur dated 12th July, 1982 and that of the Deputy DirectorcumPanchayat Officer dated 7th January, 1981, were illegal and without jurisdiction. The suit was contested by the defendant Gram Panchayat, inter alia, on the ground that the Civil Court had no jurisdiction and that the Gram Panchayat was the owner of the suit land and not the Custodian, and, therefore, the latter had no right to lease out the same to the plaintiff and that the possession of the plaintiff over the suit land was wholly illegal and the orders passed by the authority under the Punjab Public Premises and Land (Eviction & Rent Recovery) Act, 1970, were quite valid and legal. The trial Court found that the said orders were null and void and without jurisdiction and the civil court had the jurisdiction to go into the matters as regards the ownership of the Gram Panchayat. It was further found that the Gram Panchayat could not be held to be the owner of the suit land. Consequently, the suit was decreed. In appeal, the learned Additional District Judge relying on the judgment of this Court reported as

Gram Sabha v. The Chief Settlement Commissioner, 1973 PLJ 398, came to the conclusion that the orders passed by the authority under the said Act were illegal and the Gram Panchayat could not be held to be the owner of the suit property. Dissatisfied with the same, the Gram Panchayat has filed Second Appeal in this Court.

3. Since the matter was covered by the Supreme Court judgment reported as Gram Panchayat v. Malwinder Singh, 1985 R.R.R. 249 : 1985 PLJ 463, the appeals were directed to be set down for hearing early.

4. Learned counsel for the appellant contended that the judgment relied on by the lower appellate court, viz. 1973 PLJ 398, was reversed, in appeal, by the Supreme Court in Malwinder Singh's case (supra), now the Gram Panchayat was the owner of the suit property and the entries made in the revenue record in this behalf were correct.

5. In view of the Supreme Court judgment it could no more be contested on behalf of the plaintiff that the Gram Panchayat was not the owner of the suit property, as held by the courts below.

6. It is unfortunate that the said judgment was in existence when the appeal had been decided by the Additional District Judge on 12th February, 1986 but the learned counsel for the parties did not care to cite it but relied on a judgment which had been reversed in appeal.

7. Faced with the situation, learned counsel for the plaintiff respondent submitted that even otherwise the Gram Panchayat could not be held to be the owner of the suit property. I am afraid no such argument is available to the plaintiff. As a matter of fact, the jurisdiction of the civil court was barred u/s 13 of the Punjab Village Common Lands (Regulation) Act, 1961, which clearly provides that no civil court shall have jurisdiction to entertain or adjudicate upon any question whether any property or any right to or interest in any property is or is not Shamlat deh vested or deemed to have been vested in the Panchayat under this Act. That being so, the civil court cannot decide this question as to whether the property or any right or interest therein is or is not Shamlat deh vested in the Gram Panchayat. For that purpose, Section 11 of the Act provides that any person claiming any right, title or interest in any land vested or deemed to have been vested in a Panchayat under this Act or claiming that any land has not so vested in a Panchayat may submit to the Collector a statement of his claim in writing and the Collector shall have jurisdiction to decide such claim. Since the suit land in the present case is shown in the ownership of the Gram Panchayat as per the revenue record, it will be deemed to have vested in the Gram Panchayat, and in case any person wants to challenge the same, he may approach the Collector under the aforesaid Act. The jurisdiction of the civil court is barred u/s 13 thereof. In this view of the matter, all the four appeals succeed, the judgment and decree of the courts below are set aside and the suits are dismissed on the ground that the civil court has no jurisdiction to decide the question whether the

suit property is or not Shamlat deh vested in the Gram Panchayat.