

ITEM NO.17

COURT NO.5

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 11142/2020

(Arising out of impugned final judgment and order dated 03-02-2020 in RSA No. 4309/2014 passed by the High Court Of Punjab & Haryana At Chandigarh)

ISHWAR & ORS.

Petitioner(s)

VERSUS

GRAM PANCHAYAT PARLI KHURD

Respondent(s)

(FOR ADMISSION and IA No.93267/2020-EXEMPTION FROM FILING O.T. and IA No.93268/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 19-10-2022 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Naresh Kaushik, Adv.
Mr. Vardhman Kaushik , AOR
Mr. Manoj Joshi, Adv.
Mr. Dhruv Joshi, Adv.

For Respondent(s) Mr. Sandeep Chhabra, Adv.
Mr. Jinendra Jain, AOR

UPON hearing the counsel the Court made the following
O R D E R

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 03.02.2020 passed by the High Court of Punjab and Haryana at Chandigarh, by which the High Court has allowed the Regular Second Appeal No. 4309 of 2014 preferred by the respondent-Gram Panchayat and has quashed and set aside the decree passed by the learned trial Court, the original plaintiff has preferred the present Special Leave Petition.

We have heard learned counsel appearing for the respective parties.

The issue/dispute centers around on interpretation of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'). Section 13 reads as under:-

"13. No civil court shall have jurisdiction

(a) to entertain or adjudicate upon any question whether-

(i) any land or other immovable property is or 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 deter; 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."

The plaintiff instituted a suit praying for the following reliefs:

"that a decree for declaration to the effect that mutation no. 322 dated 26.7.55 sanctioned by the order of AC IInd Grade and jamabandies subsequently prepared up to date in respect of suit land fully detailed in para 0.1 of the plaint in favour of the defendant are wrong, illegal, void and nullity and not binding on the rights of the plaintiffs/proprietors of the village and do not confer any right, title and interest upon the defendant and are liable to be corrected in favour of the plaintiffs/proprietors of the village as existed prior to the sanctioning of the impugned mutation and a decree for permanent injunction restraining the defendant from interfering in the peaceful possession of the plaintiffs and from dispossessing them from the suit land by way of leasing it out and by carving out plots out of it

illegally and forcibly be passed in favour of the plaintiffs and against the defendant with costs.”

Therefore what was challenged before the Civil Court was the mutation entry of 1955 which was against the plaintiff. The submission on behalf of the plaintiff that Section 45 of the Punjab Land Revenue Act shall be applicable and not Section 13 of the Act shall be applicable has no substance.

Section 45 of the Punjab Land Revenue Act shall be applicable only in a case where the plaintiff wants to protect his possession on the basis of his name in the mutation record and/or revenue record. However, any dispute with respect to mutation entry can only be before the revenue authorities only. Section 13B of the Act, 1961 is very clear. It provides that no Civil Court shall have jurisdiction in respect of any matter which any revenue court/office or authority is empowered by or under the said Act to determine.

In that view of the matter, the High Court has rightly allowed the Second Appeal and held that the suit before the Civil Court challenging the mutation entry was not maintainable at all and there was a bar of filing the civil suit.

We are in complete agreement with the view taken by the High Court. No interference of this Court is called for.

The Special Leave Petition stands dismissed.

Pending applications stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(RENU BALA GAMBHIR)
COURT MASTER (NSH)