

(1986) 12 P&H CK 0003

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Regular Second Appeal No. 853 of 1978

Ram Kumar Alias Onkar

APPELLANT

Vs

Gram Panchayat Village Nangal
Katha

RESPONDENT

Date of Decision: Dec. 11, 1986

Acts Referred:

- Punjab Village Common Lands (Regulation) Act, 1961 - Section 13

Hon'ble Judges: Ujagar Singh, J

Bench: Single Bench

Advocate: D.N. Tanwar, for the Appellant; Chandra Singh, for the Respondent

Final Decision: Allowed

Judgement

Ujagar Singh, J.

The R. S. A. relates to some area belonging to the Gram Panchayat-Respondent. The courts below have found that the Appellant has encroached upon 2 Marias of land out of killa No. 65 and 1 Maria of land out of killa No. 288 situated in the area of mauza Nangal Katha. These two khasra numbers were claimed by the Plaintiff-Respondent as shamilat deh and the Defendant Appellant in his written statement denied the ownership of the Gram Panchayat and claimed that he has made no encroachment in the said killa numbers and that he has constructed a building in his own land comprised in killa No. 215.

2. The sole point urged by the learned Counsel for the Appellant is that the jurisdiction of civil court is barred by Section 13 of the Punjab Village Common Lands Act, 1961, as applicable to the State of Haryana and has urged that in this case the courts below have no jurisdiction to adjudicate upon the question involved in this litigation. I agree with the learned Counsel that the question involved in the present litigation cannot be adjudicated by the civil courts more so, when under issue No. 1, the civil court had to determine as to whether Plaintiff was owner in possession of

the suit land. This appeal is accepted and the judgments and the decrees of the courts below are set aside and the plaint is directed to be returned for presentation to the competent authority for adjudication of the question involved. Parties to bear their own costs.