
Jang Singh Vs Gram Panchayat

Regular Second Appeal No. 3575 of 2005

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: May 25, 2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) " Order 41 Rule 27#Punjab Village Common Lands (Regulation) Act, 1961 " Section 11

Citation: (2006) 144 PLR 263 : (2006) 3 RCR(Civil) 428

Hon'ble Judges: Ajay Kumar Mittal, J

Bench: Single Bench

Advocate: Jatinder Singla, for the Appellant; Vikas Chatrath, for the Respondent

Final Decision: Dismissed

Judgement

Ajay Kumar Mittal, J.

This is plaintiff's second appeal. A suit for declaration filed by the plaintiff seeking a declaratory decree to the effect

that order dated 18.9.1977 passed by the District Development and Panchayat Officer-exercising the powers of Collector, Ropar ordering

ejectment of the plaintiff from the suit land and order dated 24.8.2001 passed by the Director-cum-Special Secretary, Punjab Government, Rural

Development and Panchayat, Punjab were illegal, null and void, without jurisdiction and had no binding effect on him was dismissed by the trial

Court. It was claimed by the plaintiff that he was in possession of the land in dispute and even prior to January 26, 1950, the said land was in

possession of his predecessors. On behalf of the defendant, it was claimed that the defendant-Gram Panchayat was the owner of the suit property

and the plaintiff was in illegal possession of the same and the suit property had been kept reserved for common purposes of the village.

2. The rival contentions gave rise to various issues. Trial Court on appreciation of evidence held that after passing of the ejectment order against

the plaintiff by the Collector Ropar, he had got no locus standi to file the present suit for declaration challenging the said order. It was observed

that a person who is in illegal possession of a property had no right to protect his possession by resorting to his remedy before the Civil Court. The

lower appellate Court affirmed these findings and went ahead in observing that the plaintiff had failed to prove on record that the land in dispute

was a bachat land. The appeal was consequently dismissed. Application filed by the plaintiff under Order 41 Rule 27 of the CPC for placing on

record the revenue record before the lower appellate Court was also dismissed as the same was found to be devoid of any merit.

3. I have heard learned Counsel for the parties and gone through the record. Counsel for the appellants vehemently submitted that the findings

recorded by the Courts below are wrong and the evidence led on his behalf was not properly appreciated. On the other hand, learned Counsel

appearing on behalf of the defendant-Gram Panchayat contended that the property is vested with the Gram Panchayat and ejection order Exhibit

D-1 was legal and valid and the Civil Court had no jurisdiction to try the suit.

4. The findings recorded by both the Courts below are concurrent findings of fact based on appreciation of evidence oral as well as documentary

and do not call for interference by this Court in second appeal. While rejecting the plea of the plaintiff that suit property is bachat land, it was rightly

observed by the Courts below that question of title was to be decided by the Collector u/s 11 of the Punjab Village Common Lands (Regulation)

Act, 1961. No illegality or perversity could be pointed out by the learned Counsel for the appellant in the said findings. This Court refrains from re-

appreciating evidence in second appeal unless it is pointed out by any of the parties that there is mis-reading of evidence or any material evidence

has been ignored from consideration or the findings returned are palpably wrong and against law. Nothing was shown by the counsel for the

appellants in this regard warranting interference in this regular second appeal. No question of law, much less a substantial question of law arises in

this appeal for the consideration of this Court. The appeal is consequently dismissed.