

Gram Panchayat Mehal Kalan v. Ram Singh and others  
(J. V. Gupta, J.)

basis. Such a plea would have been destructive to the one taken in the earlier suit that there was a relationship of lessor and lessee between the appellant and respondent No. 1. I am, therefore, of the considered view that the instant suit was not barred by the principle of *res judicata*. The finding to the contrary recorded by the learned Courts below on issue No. 6 is, therefore, reversed.

(6) Since according to the concurrent findings of the learned Courts below, the appellant is the owner of the suit land and respondents are in its unauthorised possession, he is entitled to a decree for possession of the same.

(7) Consequently, I allow this appeal, set aside the judgments and decrees of the learned Courts below and decree the suit of the appellant with costs throughout.

H.S.B.

Before J. V. Gupta, J.

GRAM PANCHAYAT MEHAR KALAN,—Petitioner.

versus

RAM SINGH and others,—Respondents.

Civil Revision No. 571 of 1986.

April 16, 1986.

*Punjab Village Common Lands (Regulation) Act (XVIII of 1961)—Sections 11 and 13—Plaintiff filing suit seeking declaration to be owner of suit land claimed also by Gram Panchayat—Section 11 conferring on Collector under the Act jurisdiction to decide the matter—Section 13 of the Act—Whether bars the jurisdiction of the Civil Court—Such suit—Whether maintainable.*

*Held*, that from a reading of Sections 11 and 13 of the Punjab Village Common Lands (Regulation) Act, 1961, it is quite obvious that in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine, the jurisdiction of the civil court is barred. Section 11 clearly provides that the Collector shall have the jurisdiction to decide the question as

to whether the plaintiff was owner of the suit land alongwith others. As such it has to be held that the jurisdiction of civil court is barred under Section 13 of the Act and the suit is not maintainable.

(Paras 6 and 7)

*Petition under Section 115 C.P.C. for revision of the order of the Court of Shri Mohinder Singh, Additional Senior Sub-Judge, Barnala, dated 9th January, 1986, issue No. 3A regarding jurisdiction is decided against the panchayat and in favour of the plaintiffs.*

G. S. Dhillon, Advocate, for the Petitioner.

M. S. Ratta, Advocate, for the Respondents.

#### JUDGMENT

*J. V. Gupta, J.—*

(1) This petition is directed against the order of the trial court, dated 9th January, 1986, whereby the issue of jurisdiction of the Civil Court which was treated to be preliminary was decided in favour of the plaintiffs.

(2) The plaintiffs/respondents filed the suit for declaration that the plaintiffs and proprietors of Village Mehal Kalan were the owners of the suit land jointly, and owners in possession, in accordance with the Jamabandi for the year 1979-80; that the Gram Panchayat has no connection with it; that the entries of Mutation No. 624, dated 13th June, 1964, in view thereof in the revenue records were against the rights of the plaintiffs and the proprietors of Village Mehal Kalan Patwar Halqa A, and the same were ineffective, the plaintiffs being not bound by it. It was also prayed that the plaintiffs and proprietors were entitled to get the entries made in the revenue records as joint owners in possession, and, consequently the defendant be restrained from getting the possession of the land and giving it on lease to anybody else.

(3) In the Written Statement, an objection was raised as to the jurisdiction of the Civil Court in view of the provisions of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, the Act). Consequently, the issue of jurisdiction was treated as preliminary, and the trial court came to the conclusion that the present suit was simply a suit for declaration; that the plaintiffs

Gram Panchayat Mehal Kalan v. Ram Singh and others  
(J. V. Gupta, J.)

---

were owners of the suit property, and that the entries in the revenue record showing the defendant-Gram Panchayat as the owners were wrong. According to the trial court, the question involved in the present suit was simply a question of title with respect to the suit property; that it was not to be determined whether the suit property was Shamlat or not and whether it validly vested in the Gram Panchayat or not, being Shamlat. On this view, the trial court found that the Civil Court did have the jurisdiction to try the suit.

(4) Learned counsel for the defendant-Gram Panchayat submitted that section 11 of the Act provides that any person claiming 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 the jurisdiction to decide such claim in such manner as may be prescribed. Thus, argued the learned counsel, that being the remedy available under the Act, the jurisdiction of the Civil Court was barred under section 13 thereof which provides that no civil court shall have the jurisdiction in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine. In support of his contention he referred to a Division Bench judgment of this Court in *Gram Sabha, Balad Kalan v. Sarwan Singh* (1), *Rakha Singh v. Babu Singh* (2), and *Gram Panchayat Sadhrawar v. Baldev Singh* (3).

(5) On the other hand, learned counsel for the plaintiffs-respondents submitted that the Civil Court had the jurisdiction to try the suit, and section 13 was no bar to entertain the same. In support of his contention, he referred to *Rattan Singh v. Gram Sabha Budha Theh* (4), *Dalip Singh v. State of Haryana* (5), *Mehru v. Mohan Lal* (6), *Krishan Lal (died) v. Kurda* (7), and *Bhagu v. Ram Sarup* (8).

- 
- (1) 1981 RLR 479.
  - (2) 1985 RLR 434.
  - (3) 1983 (1) L.L.R. 602.
  - (4) 1985 P.L.J. 231.
  - (5) 1985 P.L.J. 247.
  - (6) 1985 P.L.J. 37.
  - (7) 1985 P.L.J. 53.
  - (8) 1985 P.L.J. 366.

(6) I have heard the learned counsel for the parties, and also gone through the case law cited at the Bar. Section 11 of the Act reads as under:—

“11. *Decision of claims of right, title or interest in shamlat deh.*—(1) Any person claiming 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 was not so vested in a Panchayat, may submit to the Collector, within such time as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed and the Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit.”

This section was incorporated by virtue of Punjab Act No. 19 of 1976. Section 13 of the Act, as at present, was also incorporated by the amending Act No. 19 of 1976, which provides for a bar of jurisdiction of civil courts, and is to the following effect:—

“No civil court shall have jurisdiction—

- (a) 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 a Panchayat under this Act; or
- (b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat under this Act; or
- (c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine.”

Gram Panchayat Mehal Kalan v. Ram Singh and others  
(J. V. Gupta, J.)

---

Reading both the sections together, it is quite obvious that in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine, the jurisdiction of the civil court is barred. Section 11 clearly provides that the Collector shall have the jurisdiction to decide such claim as contemplated thereunder. The present suit is fully covered by the provisions of section 11, and, therefore, the jurisdiction to entertain the same is clearly barred under section 13 of the Act. The judgments of this Court in *Gram Sabha, Balad Kalan's* case (supra) and *Gram Panchayat Sadhrwar's* case (supra) relied on by the learned counsel for the petitioner, fully cover the present case. The judgments relied on by the learned counsel for the plaintiffs-respondents on the other hand, have absolutely no relevance to the facts of the case. Further, in *Rattan Singh's* case (supra), the question was not of the jurisdiction of civil courts but was only as to whether under section 13(b) of the Act, the case could be transferred or not to the Assistant Collector to adjudicate upon the question of title. Similarly, in *Dalip Singh's* case (supra), which was a case arising out of a writ petition, it was held by this court that there was no bar to entertain a civil suit for permanent injunction. This again has no relevance. *Bhagu's* case (supra), was a case pertaining to Haryana State where it was held that section 13 of the Act, as substituted by the Haryana amending Act 2 of 1981, was not operative when there was a dispute between two individuals. Admittedly, in the present case, the dispute is by the plaintiffs with the Gram Panchayat itself. Thus, none of the cases relied upon by the counsel for plaintiffs/respondents support his contentions.

(7) As a result of the above discussion, this petition succeeds, the impugned order is set aside, and it is held that the jurisdiction of the civil court is barred to entertain the present suit.

(8) In view of the above order, the trial court is directed to pass necessary orders about returning the plaint to the plaintiffs. The defendant-petitioner will be entitled to the costs of this petition.

(9) The parties, through counsel, are directed to appear in the trial court on 28th April, 1986.

---

H.S.B.