



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

125

**RSA-1363-2021 (O&M)
Date of decision : 10.03.2025**

Labh Singh and others

..... Appellants

versus

Karnail Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Cooner, Advocate and
Mr. Vikrant Cooner, Advocate
for the appellants.

PANKAJ JAIN, J. (ORAL)

1. Plaintiffs are in appeal. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellants as plaintiffs and respondents as defendants.

2. Plaintiffs filed suit for declaration to the effect that the entries recorded in the revenue record depicting defendant in possession as gair marusi in respect of the suit land as detailed out in the headnote of the plaint, are null and void. The plaintiffs alongwith other proprietors of the village are owners in possession of the suit land.

3. Plaintiffs claimed themselves to be the khewatdars in the village. It was claimed that during consolidation of the land in the village pro-rata cut was made from their holdings. The land of Mushtarka Maalkans in the revenue estate of Begampur is 143 kanals



14 marlas. The same has remained in continuous possession of the khewatdars since the time of consolidation of the land. With the consent of proprietors/khewatdars, the land used to be given on annual lease by Gram Panchayat of the village Machhaunda by way of auction. However, Gram Panchayat of village has no right, title or interest in the suit land as land never vested in it. Village Machhaunda alongwith revenue estate of Begampur have been notified as urban area and included within limits of Municipal Corporation, Amabla. Gram Panchayat has ceased to exist. The land is in exclusive possession of the plaintiffs. Defendant in connivance with the revenue officials got khasra girdawari of the suit land entered into his name without any notice to the plaintiffs.

4. Suit was contested by the defendant who filed written statement. It was claimed that plaintiffs are neither owners nor in possession of the suit property. The present suit has been filed without impleading Municipal Corporation, Ambala as a party. Thus, the same is bad for non-impleadment of necessary party.

5. Court of the first instance framed following issues:-

- “1. Whether the plaintiffs are entitled for decree of declaration alongwith consequential relief of permanent injunction, as prayed in the head note of the plaint?OPP
2. Whether plaintiffs have no locus standi to file or to maintain the present suit?
3. Whether the suit of the plaintiff is not maintainable in the present form?OPD
4. Whether the suit of the plaintiffs is bad for non joinder of necessary parties?OPD

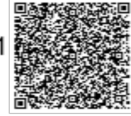


5. *Relief.”*

6. While deciding issue No.1, Court of the first instance found that the plaintiffs failed to prove their possession over the suit property. Simple suit for declaration was thus, not maintainable. Gram Panchayat or its predecessor-in-interest i.e. Municipal Corporation, Ambala is a necessary party, the suit in their absence cannot be entertained. Court of the first instance thus, dismissed the suit filed by the plaintiffs.

7. Dissatisfied with the judgment, the plaintiffs approached Lower Appellate Court. Lower Appellate Court affirmed the finding recorded by the Trial Court and dismissed the suit for want of impleadment of necessary party i.e. Municipal Corporation, Ambala.

8. The case of the plaintiffs is that the land was taken out of their holdings on pro-rata basis and was to be utilized for public purpose. They claim that the same having not been utilized and the village having been notified as a municipal area, the same shall revert back to the proprietors. Even if the whole case pleaded by the plaintiffs is to be taken on its face value, counsel for the appellants is not in a position to dispute that Municipal Corporation, Ambala being successor-in-interest of the Gram Panchayat would be a necessary party. In the absence of Municipal Corporation, Ambala the dispute raised by the plaintiffs cannot be adjudicated. It seems to be a proxy *lis* initiated by the plaintiffs at the back of the necessary party i.e. Municipal Corporation against defendant to get declaration as owners



knowing well that defendant is not the owner nor he claims so. Thus, in the absence of Municipal Corporation, the suit filed by the plaintiffs has been rightly dismissed by the Courts below.

9. Findings no merits in the present appeal, the same is ordered to be dismissed.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

10.03.2025

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No