

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****113****RSA-2927-2019 (O&M)****Date of Decision : 18.02.2025**

Tej Pal

....Appellant

VERSUS

Gram Panchayat, Dhanora Jattan and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vicky Sharma, Advocate for
Mr. K.S. Dhaliwal, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by defendant No.8 aggrieved by the judgment and decree dated 26.03.2015 passed by the Trial Court and the judgment and decree dated 12.11.2018 passed by the First Appellate Court.
2. The brief facts relevant to the present *lis* are that plaintiff-Gram Panchayat (respondent No.1 herein) filed a suit for permanent injunction averring in the plaint that they had constructed a *Chaupal* and a *Panchayat Ghar* and between the *Gram Panchayat Chaupal* and *Panchayat Ghar* there is a vacant land belonging to the plaintiff-Gram Panchayat and a boundary wall has been constructed on the vacant land shown at point 'EFGH'. Further prayer in the plaint was that defendants, who were threatening the plaintiff-Gram Panchayat, be restrained from interfering.
3. On notice defendant No.8-appellant appeared and filed his written statement averring therein that no *chaupal* has been constructed by the plaintiff-Gram Panchayat. Rather, it was constructed by land holders of

the village. It was further averred that *Anganbari* was constructed by defendant No.8-appellant and now the *Anganwari* has shifted and the plaintiff-Gram Panchayat is wrongly claiming the room as *Panchayat Ghar*. It was denied that any boundary wall was constructed by the plaintiff-Gram Panchayat. The defendant No.8-appellant claimed himself to be owner in possession of the suit property.

4. Defendant Nos.3 and 5 filed their joint written statement raising various preliminary objections regarding maintainability and locus standi. On merit, it was stated that the plaintiff-Gram Panchayat was a stranger to the suit property and they had lost in a civil suit vide judgment and decree dated 08.12.1995. It was further averred that the plaintiff-Gram Panchayat was neither the owner nor in possession of the suit property. Defendant Nos.3 and 5 also claimed themselves to be the owners in possession of the suit property.

5. Replication was filed. On the basis of pleadings of the parties the following issues were framed :

1. Whether plaintiff is entitled to a decree for permanent injunction, as prayed for ? OPP
2. Whether the plaintiff is entitled to a decree for mandatory injunction, as prayed for ? OPP
3. Whether the suit is not maintainable in the present form and the plaintiff has no locus standi and cause of action to file the present suit ? OPD

4. Whether the plaintiff has concealed true and material facts from this Court ? OPD
5. Whether the plaintiff is estopped by his own act and conduct from filing the present suit ? OPD
6. Relief.

Following additional issue was also framed vide order dated 08.12.2014 :

- 5-A Whether the suit is hit by principle of res judicata ?
OPD

6. The Trial Court vide judgment and decree dated 26.03.2015 dismissed the suit on the basis of findings on issues Nos.1 and 5-A. Aggrieved by the same, an appeal was preferred by the plaintiff-Gram Panchayat as well as by defendant No.8-appellant herein. Both the appeals were dismissed by the First Appellate Court vide judgment and decree dated 12.11.2018. Aggrieved by the same, the present regular second appeal has been preferred by the defendant No.8-appellant.

7. Learned counsel for the defendant No.8-appellant would contend that defendant No.8-appellant is owner in possession of the suit property and that finding ought to have been given that he was owner of the suit property. It is further the contention that an issue regarding ownership of the defendant No.8-appellant ought to have been framed.

8. Heard.

9. In the present case the defendant No.8-appellant herein was impleaded as a party on an application filed under Order I Rule 10 of the Code of Civil Procedure, 1908. The defendant No.8-appellant herein never

filed any counter-claim to claim his ownership on the suit property. Both the Courts had held that the defendant No.8-appellant and the other defendants were in possession of the suit property and therefore dismissed the suit of the plaintiff-Gram Panchayat. The argument of learned counsel for the defendant No.8-appellant that a finding ought to have been given in a suit for permanent injunction filed by the plaintiff-Gram Panchayat that the defendant No.8-appellant was owner in possession, is wholly misplaced. There was no counter-claim which was filed by the defendant No.8-appellant herein. The only issue in the suit was qua permanent injunction and no declaration was sought by either side. In view thereof, the argument of learned counsel for the defendant No.8-appellant cannot be accepted. No fault can be found with the judgments passed by both the Courts. No other point was argued.

10. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

18.02.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO