



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

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RSA-800-2025 (O&M)

Date of Decision.:17.03.2025

Gurnam Chand and Another

.....Appellants

Vs.

Gurmukh Singh and Others

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Vijay Pal, Advocate and  
Mr. Akash Lather, Advocate  
for the appellants.

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**DEEPAK GUPTA, J. (ORAL)**

Plaintiffs of the case are before this Court against the concurrent findings of the Courts below, inasmuch as suit for mandatory and permanent injunction regarding property in dispute filed by them was dismissed by the trial Court on 19.10.2022 and the appeal filed by them was dismissed by the first Appellate Court on 27.11.2024.

2. As per the case put forth by the plaintiffs, there existed a common WELL (*Kuan*) in the village over the area shown by letter 'ABCD' with red colour in the site plan attached with the plaint, since time immemorial and was being used by the residents of the village for all common purposes. By virtue of the provisions of The Punjab Village Common Lands (Regulation) Act, the well as well as the area of the same vests in the Gram Panchayat and that defendant Nos.1 to 5 had no right to damage or demolish the platform/ cylinder of the well. It was alleged that defendant Nos.1 to 5 were threatening to raise more construction.

3. Defendants contested the suit by submitting that suit property was in possession of Dashmesh Gurudwara Sahib and was being used for



preparing Langar by the Gurudwara Sahib. Defendant No.6-Gram Panchayat took the stand that it had nothing to do with the suit property and the same was under management of Dashmesh Gurudwara Sahib for the last 35 years. It was alleged by the defendants that suit has been filed by the plaintiffs to disturb peace and harmony of the village between the two communities. Prayer was made for dismissal of the suit.

4. Necessary issues were framed. Evidence produced by the parties was taken on record. The trial Court dismissed the suit and Appellate Court affirmed the findings.

5. Learned counsel for the appellants submits that well always vests in the village Panchayat and therefore, defendants had no right to filled the well and so, the findings returned by the Courts below are wrong.

6. There is no merit in the contention. It will be useful to reproduce the observations made by the first Appellate Court.

“Thus, from the pleadings of the parties, this fact has become crystal clear that appellants/plaintiffs have come up with the specific stand that there existed common well of the Village over the suit property and by virtue of provisions of The Punjab Village Common Land (Regulation) Act, said well vests in the Gram Panchayat of Village Usmanpur and defendants No.1 to 5 have illegally raised construction of one room over the suit property and further threatening to raise construction over it, for which they have got no right. Whereas, on the other hand, defendants/respondents have simply denied the existence of well over the suit property. They have come with the specific stand that property in dispute is in possession of Dashmesh Gurudwara Sahib and same is being used for preparing Langer by Gurudwara Sahib. It is settled law that plaintiffs have to stand on its own legs and they cannot get benefit from the weakness of the case of defendants. Here in the present case, in order to succeed in their case, it was incumbent upon the plaintiffs/appellants to prove the existence of



common well over suit property and further that suit property vest in Gram Panchayat as alleged by them in their plaint. But however, except the bald statement of one of appellant, nothing has been brought on record to substantiate this plea with regard to existence of well over the suit property and vesting of suit property with Gram Panchayat. Even, at the time of appearing in the witness box as PW-1, one of the plaintiff namely Jaswinder Kumar has categorically admitted in his cross-examination that he is not having any such document showing Gram Panchayat is owner of the suit property. Whereas, on the other hand, Gram Panchayat of Village Usmanpur while filing written statement has completely denied this fact that there ever remained any common well over the suit property. Even Gram Panchayat has also specifically denied that suit property vests in Gram Panchayat, rather, all the respondents have come up with the specific stand in the written statement that suit property is being used by Gurudwara Sahib as kitchen for the preparation of Langer for the last more than 35 years. Even appellant/plaintiff Jaswinder Kumar has also admitted this fact impliedly, when he stated in his cross-examination that he disclosed this fact to his counsel at the time of filing of present suit that Dashmesh Gurudwara Committee had demolished the well and constructed the room on it. But despite that appellant/plaintiff did not make any effort to implead this Managing Committee of Gurudwara Sahib as party, which was necessary party. Even otherwise, PW-1 Jaswinder Kumar has admitted during his cross-examination that he never moved any application before Block Development and Panchayat Officer mentioning that suit property is the ownership of Gram Panchayat and that the Managing Committee of Gurudwara or anybody else is in illegal possession of the same. Thus, appellants/plaintiffs have failed to prove the erstwhile existence of common well over the suit property as well as ownership of Gram Panchayat over the same. Therefore, learned Trial Court has rightly declined the relief to the appellants/plaintiffs.”

7. It is apparent from the aforesaid observations that plaintiffs-appellants failed to prove the existence of common well over the suit

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property. Though it was claimed by the plaintiffs that suit property vested in Gram Panchayat but the said Gram Panchayat impleaded as defendant No.6 denied that suit property ever existed in it. Specific stand was taken by it that the suit property was being used by Gurudwara Sahib as kitchen for preparation of *langar* for the last more than 35 years. The said fact was even admitted by plaintiff Jaswinder during his cross-examination.

8. In the abovesaid facts and circumstances, this Court does not find any reason whatsoever to disturb the concurrent findings of facts as recorded by the Courts below.

No merits. Dismissed.

All the miscellaneous application(s), if any, stand disposed of.

**(DEEPAK GUPTA)**  
**JUDGE**

**March 17, 2025**

Neetika Tuteja

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |