

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.3275 of 2012

Date of decision: 28.04.2015

Mahant Hanuman Giri Chela of Gurbachan Giri Chela of Krishan Giri, resident of Dera Shiv Mandir, Baba Shiv Giri Gaushala, Sotran Road, Banga, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar.

... Petitioner

versus

Satish Kumar son of Gandharav Suri, resident of Azad Chowk, Banga, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar, and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sandeep Verma, Advocate,
for Mr. Tejinder Pal Singh, Advocate,
for the petitioner.

Mr. Tarun Walia, Advocate,
for Mr. Deepak Agnihotri, Advocate,
for respondents 2 and 3.

K.Kannan, J. (*Oral*)

1. The petitioner, who is the plaintiff, sought for an injunction against the defendants from interfering with the possession and management of the *dera* claiming to be a *chela* of the previous guru who was taking care of the religious institution. It appears that the petitioner has entered his name in the revenue records on the orders of the orders of the Deputy Commissioner of the District SBS Nagar and the injunction was sought on a plea that the respondents are trying to interfere with the petitioner-plaintiff's

possession. The defendants' contention was that the plaintiff has obtained false revenue entries and he is not really the disciple/*chela* of Krishan Giri. The defendant's contention was that among other properties, the *gaushala* was established by the first defendant and he is maintaining the same.

2. The trial Court granted the relief of injunction by way of protection of status quo to the plaintiff finding a prima facie evidence of the plaintiff's status as nominated *chela* and entered as such in the revenue records. In the appeal filed by the defendants, the appellate Court modified the decision and allowed for the management of the *dera* to be continued by the plaintiff and the defendants, however, will have the right to serve Shiv Giri Gaushala but the management decision with regard to the management of *gaushala* will be taken by the plaintiff. If the court was accepting that the defendants will have a right to serve the *gaushala* then, unless there is a particular right inhering in taking care of the *gaushala*, they cannot force themselves on the plaintiff. A service at the *gaushala* is a voluntary activity and such an activity must also conform to the general superintendence and management of the mohatmin. If the court was protecting therefore the management of the *gaushala* and the decisions to be taken with regard to its management in the hands of the plaintiff, the court could not have stated that the defendants will have a right to serve in the *gaushala*

as though that right is something which can happen outside the purview of the right of management.

3. I asked the counsel for the defendants whether he admits the fact that *gaushala* has been established in the property belonging to Shiv Mandir. I also asked him whether the defendants are themselves the owners of the property over which *gaushala* has been established. The counsel admits that the property does not belong to any of the defendants but they are running the *gaushala* as a service activity. If that charity is not accepted by the plaintiff, who has a prima facie case to contend on the basis of revenue entries, by orders passed by the Deputy Commissioner that he has a right to manage the *dera*, that right will include the right to decide whether the defendants shall assist the plaintiff in running the *gaushala* or not. The plaintiff's management of the *dera* will include a right to manage the *gaushala* that is attached to it and it is for him to decide whether the defendants could be associated in the service at the *gaushala* or not. The modification of the status quo to allow for the defendants to serve at the *gaushala* cannot be sustained and I set aside the order and restore the order passed by the first court.

4. The civil revision is allowed on the above terms.

(K.KANNAN)
JUDGE

28.04.2015
sanjeev