

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

CRM-M No. 20722 of 2014 (O&M)

Date of decision: 19.02.2015

Vanita Khosla and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rupinder Khosla, Sr. Advocate with
Mr. Aman Sharma, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab
for respondents Nos. 1 to 6.

Mr. Prateek Pandit, Advocate
for respondent No.7.

None for respondent No.8.

Mr. Karan Nehra, Advocate
for newly added respondents Nos. 9 & 10.

Jitendra Chauhan, J. (Oral)

By way of the present petition filed under Section 482 of the Code of Criminal Procedure, the petitioners seek issuance of directions to the official respondents not to help respondent No.7 to 10 and his political masters to grab the land of the forefathers of the petitioners.

2. It is contended that the petitioner No.1 was appointed as Mohatmim, whereas, petitioner No.2 is the nominated member of the

committee and they have been looking after the temple as well as property attached thereto with complete devotion. The ancestors of the petitioner No.1 served the temple and maintained for more than 200 years. A huge amount has been spent towards maintenance of the temple. The Deputy Commissioner made the report that it is in a dilapidated condition even without visiting the temple. The petitioner had entered into a lease deed dated 20.11.1998 of the land with one Piara Singh for a period of five years. Thereafter, the petitioner again gave the said land on lease to one Gurdeep Singh, respondent No.8 but respondent No.7, who is a very influential person, has been trying to grab the said property. He has threatening the petitioners.

3. The learned State counsel as well as learned counsel for the private respondent state that earlier the petitioner No.1 made a representation to the higher authorities stating therein that some persons entered into the premises of the temple and had stolen the idols of deities and had replaced them with dummy idols. However, during the enquiry, the aforesaid allegations were found to be false. He further states that as per report of the Deputy Commissioner, Kapurthala, the temple is in a dilapidated condition and not even a single penny is being spent on its maintenance. The total land attached to the temple is 786 kanals and 16 marlas, out of which some portions of land have been leased out to various persons by the petitioner No.1 for her personal gain and she never spent any amount

for the renovation or maintenance of the temple.

4. The learned counsel for respondent No.7 has submitted that respondent No.7 is a revenue Kanugoo and he has no connection either with any party or any interest in the disputed land. He has been arrayed as one of the respondent on false and frivolous grounds and that no cause of action arose against him. He further contends that the answering respondent No.7 has no personal knowledge about the contents of the writ petition except the official record and the present writ petition against him may be dismissed with costs.

5. Respondent No.8 did not appear inspite of service. It is alleged in para No.5 that the petitioners gave the suit land on lease to respondent No.8-Gurdeep Singh son of Bhagwan Singh for its maintenance for a period of five years.

6. Respondents Nos. 9 and 10 were impleaded as respondents, vide order dated 09.09.2014. Respondent No.9 alleged that he is taking care of the management and affairs of the Hardo Mandir while respondent No.10 claimed himself to be priest of the Hardo Mandir since the year 2003 taking care of religious ceremonies of the Mandir and also the affairs of the development and maintenance of the Mandir and its properties.

7. The Kings of Kapurthala Empire had donated this land measuring 768 kanals in the name of mandir as Muafi in the interest of public and Hindu religion so that the arrangements of mandir

could be done from the earning of the land. The ownership of the land was earlier stood in the name of Kapurthala Empire and thereafter when Kapurthala Empire merged with Pepsu Raj, then Pepsu Government had become its owner. When Pepsu Raj merged in Punjab, then Government of Punjab became its owner. The revenue of the land has always been exempted being its Muafi nature. When the land was registered in the name of mandir as Muafi, then two brothers namely Baij Nath and Shri Bhagwan Dass were appointed for the management and care of the Mandir in equal 1/2 share each and after their death, their legal heirs Parkash Nath and Davinder Dass became administrators as Muafidars of the land and Mandir in equal 1/2 shares each.

8. Heard.

9. Perusal of the record would reveal that earlier the petitioner No.1 was appointed as Mohatmim by the District Collector, Kapurthala, vide order dated 31.03.1997 (Annexure P-1) after the death of her father. Thereafter, the Punjab Govt. vide its office letter No. 1456 dated 26.09.2006, recommended to the Financial Commissioner, Revenue to remove petitioner No.1 from the post of Mohatmin. Out of total land measuring 786 kanals, 399 kanals and 11 marlas of land has been unauthorizedly given on lease to various persons by petitioner No.1. As per report of Deputy Commissioner, Kapurthala, the temple i.e. Hardo Mandir, was looked

after by one Daya Ram Pandit, who was engaged on a monthly remuneration of Rs.1000/- and the temple now is in a dilapidated condition. It is also noticed that the petitioner No.1 filed a frivolous and bogus representation (Annexure P-5) before the police authorities, this petition is not maintainable as disputed question of facts have been raised and that she has been unauthorizedly leasing out the land of temple to various persons. This Court avoids to adjudicate upon intricate disputed question of facts, in exercise of writ jurisdiction.

10. In view of above facts and circumstances of the case, the present petition is hereby disposed of. The interim order dated 09.09.2011 stands vacated. However, the petitioners are at liberty to seek their appropriate remedy as per law.

19.02.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE