

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

RSA No.789 of 2009 (O&M)

Date of decision : 15.12.2015

Mandir Samadhan Sidh and another

...Appellants

Versus

Gram Panchayat Rakhra and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. M.S. Rakkar, Sr. Advocate with
Ms. A.S. Syan, Advocate for appellants.

Mr. Vikas Singh, Advocate for respondents.

AMIT RAWAL, J. (Oral)

CM No.7682-C of 2012

Prayer in the application is for transposing Shiv Shanker respondent No.6 as appellant.

No ground is made out.

Dismissed.

Main Case

The appellants-plaintiffs are aggrieved of the concurrent finding of fact, whereby suit for permanent injunction restraining the

defendants from cutting, damaging the Tarveni of Pipal, Bohar and Neem situated in Mandir Samadhan Sidh in Village Rakhra, Tehsil and District Patiala, from interfering in any way in the right of the plaintiffs to worship in the aforesaid Mandir Samadhan Sidh, the Murtis of Baba Balayati and Pujya Mata Ji and other sacred objects of worship namely Tarveni and Dhuna situated therein, from damaging, changing or making any structural changes in the building of the aforesaid Mandir Samadhan Sidh and shifting the langer, from converting precincts of Mandir Samadhan Sidh or any part thereof to a Gurdwara or changing the existing mode of worship in any whatsoever, from managing the aforesaid Mandir Samadhan Sidh, its affairs and its properties i.e. the entire building described in the attached site plan and agricultural land measuring 45 Bighas 10 Biswas comprised in khasra numbers 733 to 739 situated in Village Rakhra, Tehsil and District Patiala and from operating the bank accounts relating to Mandir Samadhan Sidh particularly in the Punjab and Sindh Bank Branch, Rakhra Saving Account No.353, Patiala Cooperative Bank, Sugar Mill Branch Rakhra, Saving Bank Account No.1736 and Account in the Bank of India Branch, at Village Mandaaur and for injunction directing the defendants to render the true and complete account of the income and the expenditure in respect of the aforementioned properties and assets of Mandir Samadhan Sidh, Village Rakhra, Tehsil and District Patiala and other appropriate injunction, has been dismissed.

Mr. M.S. Rakkar, learned Senior Counsel assisted by Mr. A.S. Syan, Advocate for appellants-plaintiffs submits, that respondents-defendants being majority community wanted to take over the possession to

run the Mandir which is in existence for the last 102 years since from the Maharaja Community. It is in these circumstances, the injunction was sought. Both the Courts below have failed to notice the jamabandies Ex.P1 to Ex.P13 that Management of the institution is in the hand of Ramgarhia and same could not be given to Gram Panchayat as respondent No.2-Randir and No.4-Mohinder Singh etc. are Jatts and thus prays that appeal involves substantial question of law to be determined by this Court.

Mr. Vikas Singh, learned counsel appearing on behalf of respondents-defendants submits, that prayer for seeking rendition of the account and expenditure itself means that appellants-plaintiffs are not in possession and possession is of the defendants. However, no prayer for seeking mandatory injunction for handing over the possession has been sought and, therefore, suit ex facie was not maintainable and prays for dismissal of the appeal.

I have heard learned counsel for parties and appraised the paper book.

The head note of the plaint itself shows that appellants-plaintiffs are not in possession of the property as they have sought rendition of the account of income and expenditure in respect of aforementioned property. Such prayer in my view leads to an irresistible conclusion that respondent-defendants were and are in not possession. No plea of mandatory injunction or possession has been sought during the pendency of the suit. In my view, appellants-plaintiffs have failed to prove the possession vis-a-vis the management of the Mandir.

There is no merit in appeal.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination by this Court.

It has been brought to the notice of the Court that defendants were directed to submit the account every six months which has not been rendered. The plaintiff shall be at liberty to seek the execution of same in accordance with law.

With the aforementioned observations, appeal stands dismissed.

15.12.2015

pawan

**(AMIT RAWAL)
JUDGE**