

**In the High Court of Judicature for the States of Punjab & Haryana, at
Chandigarh**

Regular Second Appeal No. 2079 of 2012

Date of Decision: January 13, 2015

Kiranpreet Singh

----Appellant

Versus

Gurudwara Sarkari Dharmshala, Faridkot and others

----Respondents

Coram: Hon'ble Mr. Justice Mahavir S. Chauhan

Present: Mr. S.K. Arora, Advocate for the appellant.

1. Whether Reporters of local papers may be allowed to see the judgment?
Yes/No
2. To be referred to the Reporter or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Mahavir S. Chauhan, J(ORAL)

Plaintiff, Kiranpreet Singh, is in regular second appeal to assail judgment/decreed dated January 02, 2012 whereby learned Additional District Judge, Faridkot (hereinafter referred to as 'the first appellate court') has affirmed judgment/decreed dated October 14, 2009 whereby learned Additional Civil Judge (Senior Division), Faridkot (hereinafter referred to as 'the trial court') has dismissed his suit which was brought by him to seek a decree of declaration to the effect that he and proforma defendants are owners in possession of the shop, as per description in the heading of the plaint (hereinafter referred to as 'the suit shop') on the basis of a gift deed dated May 20, 1948, Exhibit P1, statedly executed in their favour by His Highness Raja Harinder Singh Brar Bans Bahadur of Faridkot (hereinafter referred to as 'His Highness') and orders passed by various authorities, viz. Commissioner, Deputy Commissioner and Rent Controller etc., including

order of eviction passed under East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Rent Act') and execution proceedings are illegal, null and void; a decree of perpetual prohibitory injunction to restrain Gurudwara Sarkari Dharamshala (Khalsa Diwan), Faridkot (hereinafter referred to as 'the contesting defendant') from interfering illegally and forcibly in his peaceful possession; and a decree of mandatory injunction mandating the contesting defendant to maintain existing position of the suit shop.

02. Plaintiff's case before the learned trial court was that His Highness, the absolute owner of the suit shop, had executed gift deed dated May 20, 1948, Exhibit P1, in favour of plaintiff's grandfather Mohan Singh and had waived off stamp duty and various other charges, and the suit shop so gifted to Mohan Singh has devolved upon the plaintiff and proforma defendants they being legal heirs of said Mohan Singh who has died on January 03, 2003. However, contesting defendant has been attempting to interfere in his possession over the suit shop under the garb of order dated May 03, 2007 passed by Deputy Commissioner, Faridkot under the Rent Act even though the suit shop does not come within the ambit of the Rent Act.

03. Contesting defendant, while denying ownership of His Highness over the suit shop as also all other averments made in the plaint, came out with a plea that the suit shop is part and parcel of Gurudwara building known as Gurudwara Sarkari Dharamshala, Faridkot, a religious institution, where Shri Guru Granth Sahib is being recited and public throng that place to pay obeisance; suit shop previously was being used as a store but was later on converted into a shop and was rented out to plaintiff's

father Joginder Singh; an application brought by the contesting defendant for plaintiff's ejectment was accepted vide order dated May 03, 2007 passed by Deputy Commissioner/District Collector, Faridkot; plaintiff's appeal against order dated May 03, 2007 was dismissed by Commissioner, Faridkot vide order dated February 27, 2008 and Civil Writ Petition brought by the plaintiff was also dismissed by the High Court vide order dated April 21, 2008.

04. Learned trial court framed issues, received and appraised evidence, heard the parties and vide judgment/decreed dated October 14, 2009 dismissed plaintiff's suit by holding that story of gift deed, Exhibit P1, propounded by the plaintiff is a concoction aimed at indefinite retention of possession of the suit shop by legal representatives of Joginder Singh, including the plaintiff; the suit shop belongs to the contesting defendant and order of eviction of the plaintiff and proforma defendants from the suit shop having been upheld upto High Court, cannot be said to be illegal and void. These findings have been affirmed by the learned first appellate court vide judgment/decreed dated January 02, 2012.

05. I have heard learned counsel for the appellant and have also scrutinized the impugned judgments/decrees.

06. Appellant's learned counsel argues that execution of gift deed, Exhibit P1, by His Highness has been proved by PW1, Mukhtiar Singh and PW2, Bhartinder Singh, ADC and nephew, respectively, of His Highness and the courts below have committed an error of fact and law by holding the gift deed to be a concoction and the contesting defendant to be owner of the suit shop. While doing so, the courts below have missed the fact that Gurudwara and Dharamshala are different from each other and order of

eviction and subsequent proceedings are thus illegal.

07. Nothing more has been argued.

08. A perusal of the impugned judgments reveals that the courts below, on appraisal of the evidence available on record came to a definite and concurrent conclusion that the suit shop was never owned by His Highness; gift deed, Exhibit P1, does not pertain to the suit shop; and orders passed by various authorities under the Act were just and legal and have been upheld by this court. Learned counsel for the appellant has not been able to show anything to the contrary as also the appeal to involve a substantial question of law.

09. Further, findings recorded by the courts below are pure findings of fact.

10. As a natural consequence of what has been said and discussed in the foregoing paragraphs and the fact that the appeal is not shown to involve a substantial question of law, impugned judgment/decreed dated December 20, 2013 passed by the learned first appellate court is maintained and affirmed and the appeal is found to be bereft of any substance and is, therefore, dismissed *in limine* with costs throughout.

(Mahavir S. Chauhan)
Judge

January 13, 2015
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