

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

DATE OF DECISION: SEPTEMBER 16, 2015

Tarsem Chand Jain Bhawara and another

.....Appellants

VERSUS

Lalit Kumar Jain and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Vinod K. Kataria, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J.

A suit under Section 92 of the Civil Procedure Code for removal of the respondent-defendants from the trustship of Samadh Swami Roop Chand Ji Maharaj and for appointment of new trustees to manage the properties of Samadh Swami Roop Chand Ji Maharaj situated at Mahanveer Jain Bazar, Raikot, and for rendition of accounts from the respondents, stands dismissed by the Civil Judge (Junior Division), Jagraon, on 20.10.2010, against which an appeal preferred by the appellant-plaintiffs has been dismissed on 19.03.2013 by the Additional District Judge, Ludhiana, which has been challenged in the present appeal.

It is the contention of learned counsel for the appellants that as per the revenue record i.e. jamabandies from 1909-10 to 1950, the property has been shown as that of Samadh Swami Roop Chand Ji Maharaj and

possession has been shown as *maqbooja bhawarian*. There is no jamabandies with effect from 1951 to 1967 as the process of consolidation was in progress. Since the year 1968-69, in the jamabandies the possession has been shown as *maqbooja-malkan* but there is nothing, which has been produced to show such change. Counsel, thus, contends that the revenue records, showing it to be ultimately being managed by S.S.Jain Sabha, a registered body, cannot be sustained. His further contention is that as to how S.S.Jain Sabha came in possession of the property, has not been explained by the respondents and, therefore, the findings recorded by the courts below cannot be said to be in accordance with law and deserve to be set-aside.

I have considered the submissions made by counsel for the appellant-plaintiffs and have gone through the judgements passed by the Courts below.

It is not in dispute that the property, which was initially owned by one Sh.Gainda Mal, was gifted by him to the Samadh Swami Roop Chand Ji Maharaj and, thus, it became the property of said Samadh. Although there is an entry in the revenue records to the effect that it was initially *maqbooja bhawarian* but thereafter it has been shown as under the management of S.S.Jain Sabha, which was formed and got registered in the year 1978. *Maqbooja bhawarian* has been explained by the Courts below to mean that the whole community is in common possession of this land. There is nothing in the revenue record that the Trust has been created by the donor Gainda Mal. On the contrary, entries in the revenue record clearly show that the property, which has been gifted by Gainda Mal, was a donation to the Samadh Swami Roop Chand Ji Maharaj and he relinquished all his ownership rights. Since the gift given by Gainda Mal through a valid gift

deed has not been disputed by the parties and the same is in accordance with law, it is irrevocable, especially when the gift is not under challenge. There being no such Trust, which was created by Gaiinda Mal, as is being sought to be asserted by the appellant-plaintiffs, the findings recorded by the Courts below do not call for any interference.

It is not in dispute that S.S.Jain Sabha was formed and registered in the year 1978 and all religious affairs have been taken over by the said Sabha, which is an autonomous body, having its constitution and there are regular elections held every three years in the general house, which contains all the Jain community of the city. All the properties are being managed by the elected members of the Sabha and each year the accounts of the Sabha are brought to the notice in/of the open house, which have been properly maintained. The bank account of the Sabha is being managed in the Central Cooperative Bank, Raikot. Neither any document nor any evidence has been produced on record by the appellant-plaintiffs to show that any property or any of the income from the property has been mis-utilized by any of the elected person, particularly defendants. The assertions put forth by counsel for the appellant-plaintiff, thus, do not carry any weight and are accordingly rejected.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

September 16, 2015
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(AUGUSTINE GEORGE MASIH)
JUDGE