

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No. 13589-C of 2013 in/and
RSA No. 5050 of 2013 (O/M)
Date of decision : 9.10.2015

Babba Nur-Ali-Tir Kunya Peer Baba and another Appellants

Versus

Punjab Wakf Board, Ambala and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Jai Vir Yadav, Advocate, for the appellants.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 24.12.2010, passed by the learned Additional District Judge, Rewari, affirming the judgment and decree dated 12.3.2008, passed by the learned Civil Judge (Junior Division), Rewari, vide which the suit of the plaintiff, was dismissed with special costs.

The plaintiffs (appellants herein) had initially filed the suit against five persons, including Punjab Wakf Board, Ambala (defendant No. 1) and Smt. Manju Gupta (defendant No. 3), praying

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for restraining the defendants from interfering in the suit property, claiming that there is a Majaar at the disputed property, which is being managed by plaintiffs. Defendant No. 1-Punjab Wakf Board, Amabla, and defendant No. 3-Smt. Manju Gupta, who is stated to be the lease holder from Punjab Wakf Board, were given up. The other defendants denied the plea that plaintiff No. 1 is the owner of the disputed property and rather it is stated that the same is owned by Punjab Wakf Board, Ambala. It was also denied that plaintiff No. 2 is managing the said property. It was submitted that the property was leased on 15.3.2001 by Punjab Wakf Board to one Manju Gupta and Suman Chhabra. The lower Court found that the owner and the lessee have been given up, though the Majaar is there, but the possession of the plaintiff is not legal. Therefore, the injunction was refused. The findings were upheld in appeal.

I have heard the learned counsel for the appellants and have also carefully gone through the file.

It comes out that the plaintiffs had given up defendant No. 1-Punjab Wakf Board, Ambala, who could contest the suit being owner of the disputed property and defendant No. 3- Smt. Manju Gupta, who is the lease holder from Punjab Wakf Board, Ambala. In this way, the suit was filed against Narender Gupta, Draftsman, Tehsil Compound, Harish Arora, President, Municipal Council, Rewari and Ramu Gujar (defendants No. 2, 4 and 5). The purpose

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of the suit is that after obtaining injunction against the said persons, who might be uninterested in the litigation, the injunction will be used against entire world. The relief of injunction is discretionary and where one party seeks to misuse the process of Court, the injunction could otherwise be refused. Therefore, no substantial question of law arises in the present appeal. Hence, the present appeal as well as application for condonation of delay of 828 days in re-filing the present appeal stand dismissed.

(KULDIP SINGH)
JUDGE

9.10.2015
sjks