

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 571 of 2015 (O/M)
Date of decision : 24.12.2015

St. Andrew's Church

..... Appellant

Versus

Cantonment Board, Ferozepur Cantt.

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Samir Rathaur, Advocate, for the appellant.

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 19.9.2014, passed by the Additional District Judge, Ferozepur, affirming the judgment and decree dated 7.3.2013, passed by the learned Civil Judge (Junior Division), Ferozepur, vide which the suit of the plaintiff (appellant herein) for permanent injunction possession, was dismissed.

According to the plaintiff, St. Andrew's Church and its compound is being maintained by donations given by Christians and other Christian Societies. It is averred that the said Church and its compound is fully recorded in Government record/gazette issued from time to time. The defendant/Cantonment Board has nothing to do with it.

RSA No. 571 of 2015 (O/M)

-2-

The stand of the defendant is that earlier the plaintiff had filed a suit for permanent injunction, which was dismissed. The appeal against the said judgment and decree was also dismissed. It is stated that the land in question falls under Survey No. 194 as GLR. There was a monument installed in South Garden, adjoining to Church. The war memorial was erected by the Britishers in the memory of those persons, who fell into 'Sutlej Campaign' in the year 1845-46. Earlier, there was a proper garden, but with the passage of time, it deteriorated and for the last more than 20 years, the same is being used as play ground by the local population. The monument also deteriorated due to weather condition and damage caused by the children playing around it. The war memorial was refurbished and relocated by the local military authorities on a place of pride, on the Mall Road, Ferozepur Cantonment. The church authorities have nothing to do with the war memorial. The plaintiff had attempted to open a gate on Southern side forcibly, but the attempt was foiled. Both the Courts below held that the disputed land was managed by the Cantonment Board and that no injunction can be issued against two owners.

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

The perusal of the judgments and decrees of both the Courts below shows that the findings of facts have been recorded

RSA No. 571 of 2015 (O/M)

that the suit land, which is infact a compound, adjoining the Church, is managed by the Cantonment Board and that the Government is the true owner thereof. The mere fact that the compound adjoins the Church does not mean that the Church will get right to annex the said compound to the Church. The plaintiff has failed to show that under which right they are claiming possession of the disputed compound. The concurrent findings of facts have been recorded by both the Courts below. No substantial question of law arises in the present regular second appeal. Hence, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

24.12.2015
sjks