

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

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Regular Second Appeal No.3320 of 2014 (O&M)
Date of Decision: September 01, 2015

Sardar Masih and others

...Appellants

Versus

Balkar Masih and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amandeep Singh Manaise, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Present Regular Second Appeal has been preferred challenging the judgments and decree passed by the Courts below dated 17.09.2010 passed by the Additional Civil Judge (Senior Division), Gurdaspur and 12.02.2014 passed by the Additional District Judge (*Ad hoc*), Gurdaspur, by which the suit for permanent injunction, which has been filed in the form of a representative capacity by the respondents-plaintiffs restraining the appellants-defendants from illegally or forcibly interfering into the plot measuring 8 marlas in village Abadi marked ABCD as shown in the site plan, which was kept for construction of Girja Ghar and has been bounded as mentioned in the head note, stands decreed and the appeal dismissed.

2. It is the contention of the counsel for the appellants-defendants that the respondents-plaintiffs have failed to prove that the land pertains to the Gram Panchayat. They have only produced the resolution of the Gram Panchayat dated 05.07.2001, according to which the land was given to the Christian community of the village for construction of the Church/Dharamshala over the common place of khuh (well). He, therefore,

contends that the decree of permanent injunction passed against the appellants-defendants, cannot be sustained.

3. This contention of the counsel for the appellants-defendants cannot be accepted in the light of the fact that the Secretary of the Gram Panchayat had appeared as PW-1 Amarjit Kaur as also Davinder Singh Ex-Sarpanch as PW-2 apart from respondent No.1-plaintiff Balkar Masih PW-3, who proved the resolution of the Gram Panchayat dated 05.07.2001 as Exhibit P-1 as also the application dated 05.07.2001 as Exhibit P-2, according to which the said land was given to the Christian community of the village for construction of the Church/Dharamshala. The appellants-defendants claimed themselves to be the owners in possession of the property but have miserably failed to produce any document showing their possession thereon except for certain receipts, which show that earth was filled in the well and in the plot through tractor trolleys.

5. The findings recorded by the Courts below being based on proper appreciation of the evidence on record cannot be faulted with.

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

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.7681-C of 2014, also stands dismissed.

September 01, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE