

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

RSA No.983 of 2015 (O&M)

Date of Decision: September 29, 2015

Mahant Muneshwar Dass Chela Mahant Manohar Dass Chela

Mahant Shiv Narayan Dass

.... Appellant

vs.

Mahant Hari Dass Chella and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Manish Kumar Singla, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present regular second appeal is the judgment and decree dated 18.10.2014 passed by learned District Judge, Narnaul, affirming the judgment dated 28.02.2011 passed by learned Civil Judge (Jr. Divn.), Narnaul, vide which the suit of the plaintiff for declaration to the effect that he is in possession of the suit land, which is the ownership of one temple of Sh. Ram Chander Ji Maharaj, situated at village Guvani and to get his name entered in the revenue record as Mohatmim, was dismissed.

The case of the plaintiff before the lower court is that he was earlier managing the temple, namely, Sh. Ram Chander Ji Maharaj, situated at village Guvani and another temple at village Balwari, Tehsil Rewari as Mohatmim. Since, he could not look after

both the temples, therefore, he transferred the Mohatmimship to one Birbal Dass (defendant No.1). Mutation Nos.964 and 982 of 1984 were entered and sanctioned in this regard. It was averred that Birbal Dass (defendant No.1) was Bairagi and left the temple 10-15 years ago and had been missing since then. Therefore, the plaintiff is entitled to get his name entered in the revenue record as Mohatmim.

Hari Dass was made party under Order I, Rule 10 CPC, who contested the suit claiming that earlier the plaintiff Manohar Dass Chela Shiv Narain Dass was Mohatmim. He willfully transferred the management rights in favour of Birbal Dass and a decree in civil suit titled as Birbal Das vs Manohar Dass was passed on 27.07.1981. Mutation No.964 dated 01.12.1984 was entered and sanctioned in this regard. One more civil suit bearing No.92 of 1981 titled as "Birbal Dass vs. Manohar Dass" was filed in the court of Senior Sub Judge, Narnaul and was decreed vide judgment and decree dated 22.03.1983. Accordingly, mutation No.982 dated 01.06.1984 was entered and sanctioned. Therefore, the plaintiff is left with no claim in the disputed property.

It is claimed that Birbal Dass was working as Mohatmim in the temple. About 24-25 years back, Birbal Dass appointed Hari Dass as a Chela in the gathering of Sadhus and Mahants. Thereafter, he started look after the affairs of the temple. Birbal Dass went on pilgrimage about 22-23 years ago. While leaving, he appointed Hari Dass as Mohatmim and since then Hari Dass is looking after the affairs of the temple as Mohatmim.

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

It comes out that the plaintiff had not challenged the two judgments and decree suffered by him in the years 1981 and 1983 as mentioned in the written statement . It is not denied that the plaintiff had suffered decrees in favour of Birbal Dass, who started working as a Mohatmim. Therefore, Birbal Dass had acquired independent right on the basis of the said decrees. The plaintiff does not claim that he was appointed as a successor of Birbal Dass. Therefore, the plaintiff cannot claim the Mohatmimship of the temple in question.

Learned counsel for the appellant has contended that the first appellate court had wrongly held Hari Dass, Chela of Birbal Dass as Mohatmim of the temple.

I am of the view that the plaintiff wanted to claim that he is now Mohatmim of the said temple. However, he has failed to prove his claim. It being so, the findings of the facts recorded by both the courts below cannot be interfered in the regular second appeal. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

September 29, 2015
sarita

(KULDIP SINGH)
JUDGE