

In the High Court of Punjab and Haryana at Chandigarh

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R.S.A. No.5487 of 2014 (O&M)

.....

Date of decision:20.7.2015

Mandir Baba Mast Nath Ward No.12

.....Appellant

v.

Lekh Ram and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Virendra Rana, Advocate for the appellant.

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Inderjit Singh, J.

This regular second appeal has been filed by Mandir Baba Mast Nath Ward No.12-appellant/plaintiff against Lekh Ram, Balbir and Shiv Charan-respondents/defendants challenging the impugned judgment and decree dated 9.7.2014 passed by the learned District Judge, Mewat at Nuh, vide which the appeal filed by the plaintiff against the impugned judgment and decree dated 17.2.2014 passed by learned Additional Civil Judge (Senior Division), Mewat at Nuh, dismissing the suit of the plaintiff, has been dismissed.

The brief facts of the case are that the plaintiff has alleged that he is Mahant/proprietor of Mandir Baba Mast Nath bearing property No.81 depicted with the letters 'ABCD' in the site plan. The suit property was

constructed by Guru of the plaintiff, namely, Puran Nath in the year 1987 and said Puran Nath developed the said Mandir by constructing Dhramshala, room, one other room, verandah and boundary wall in his life time. Puran Nath adopted the plaintiff as his Chela in his life time and since then the plaintiff resides with his Guru Puran Nath and served Guru Puran Nath till his death. The suit property is Mandir and the same is religious place. After the death of Puran Nath, the plaintiff became Mahant of the said suit property as he is performing Pooja, Aarti etc. in the said temple. It is also stated that the defendants have no right, title and interest in the same, in any manner. It is also stated that the defendants being utter stranger qua the suit property as well as without any right, title and interest are threatening to dispossess the plaintiff from the suit property and they also intend to alienate the same in the shape of residential plots.

On notice, defendants No.1 and 2 appeared and filed their written statement. Defendants No.1 and 2 denied the material facts stated by the plaintiff. It is further stated that the suit property is personal property of defendant No.1 and he constructed the said Mandir just adjacent to his two rooms over his personal property being purchased by him by virtue of registered sale deed bearing Vasika No.1176 dated 29.7.1974. It is also stated that other described property towards eastern side of the suit property in site plan is also part and parcel of property purchased by defendant No.1. It is also stated that the property purchased by defendant No.1 vide sale deed No.1176, which was sold to N.K. Gupta, Virender Gupta, Kamal Kant, Naresh Kumar vide sale deed 23.7.2004, who further sold the same to

various persons including N.K. Yadav. It is also stated that the answering defendant filed a suit against Municipal Committee, Nuh, which is pending before the Court for adjudication and in the said suit injunction application of answering defendant was allowed vide order dated 11.5.2010. Thereafter, the answering defendant raised constructions of boundary walls towards western, northern, southern sides of the suit property. It is admitted that Veer Singh is Chela of Puran Nath and the suit property is situated towards northern side of Hindu Vidya Niketan, Nuh. It is further submitted that Veer Singh has no concern with the suit property as the same is personal acquired property of the answering defendant No.1.

Defendant No.3 also filed separate written statement taking the same plea.

After framing the issues and the parties led their evidence, the learned Additional Civil Judge (Senior Division), Nuh, dismissed the suit of the plaintiff. Aggrieved from this judgment and decree the plaintiff filed an appeal, which was also dismissed by the learned District Judge, Nuh.

At the time of arguments, learned counsel for the appellant argued that the findings given by the Courts below are perverse and both the judgments and decree are liable to be set aside.

I have gone through the record and have heard learned counsel for the appellant.

The fact that Veer Singh is Chela of Puran Nath is admitted fact. The defendants proved the sale deed vide which defendant No.1 had purchased the property. Veer Singh, who had filed the suit as Mahant of

Mandir Baba Mast Nath is the son of defendant No.1.

From the record of Municipal Committee as well as other evidence, the learned Additional Civil Judge (Senior Division) has given the findings that Mandir Baba Mast Nath is property No.81, whereas property bearing No.84 is the property of Mandir Puran Nath, which is a separate Mandir. The plaintiff Veer Singh is the Chela of Puran Nath. Therefore, he has been Mahant of Mandir Puran Nath and not of Mandir Baba Mast Nath. No cogent evidence has been placed on record to prove that Veer Singh is Mahant of Mandir Baba Mast Nath and managing the affairs of this temple. The learned Additional Civil Judge (Senior Division) has minutely discussed all the documents as well as the oral evidence. The Court after discussing the statement of PW-1 has held that the description given by the witnesses regarding the suit property is the same which was purchased by defendant No.1 in the year 1971 from one Jagan Nath. PW-1 also deposed that Mandir Puran Nath is situated in the eastern side of the Hindu High School. He also deposed that Puran Nath has already expired three years back. He has also deposed that his Samadhi was constructed in the Mandir Puran Nath. He was declared as Mahant on behalf of Puran Nath, during his life time. Even if it is presumed that Veer Singh is performing worship in the Mandir Baba Mast Nath also, even then he has no right to claim any right in this temple. The lower Court on the basis of evidence has held that both the temples of Baba Mast Nath and Puran Nath Mandir are totally different properties. The plaintiff also in a statement has stated that defendant No.1 being his father is handed over his share in the property.

This is not a case for declaration of ancestral joint Hindu family property. Otherwise also, the property was purchased by defendant No.1 and he is owner of the same. Nothing has been pointed out as to which material evidence has been misread by the Courts below and which material evidence has not been appreciated in right perspective. There is also nothing on record to show that the judgments and decrees passed by the Courts below are perverse or against the evidence or law. The findings given by the Courts below are correct and as per law which do not require any interference from this Court and the same are upheld. No substantial question of law arises in this regular second appeal.

Finding no merit in the regular second appeal, the same is dismissed.

July 20, 2015.

(Inderjit Singh)
Judge

hsp