

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

**Regular Second Appeal No.5929 of 2014 (O&M)
Date of Decision: November 17, 2015.**

Sant Ram Dassi Cheli Late Mahant Kundan Dass

.....APPELLANT(s).

VERSUS

Maharishi Balmiki Ashram and another.

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Pritam Saini, Advocate with
Mr. Rajesh Goyal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This regular second appeal has been filed against the judgment and decree dated 28.02.2014 passed by Additional Civil Judge (Senior Division), Kurukshetra whereby the suit filed by plaintiff claiming Mahant Rattan Dass to be its President and seeking the declaration that defendants No.1 and 2 have been legally and rightly removed from the posts of President and Cashier vide resolution No.2 dated 10.02.2012, was decreed and the appellants-defendants were directed to hand over the charges of all the items and properties to the plaintiff society through Mahant Rattan Dass, President.

2. The case of the plaintiff, in brief, is that the plaintiff society was got registered on 24.01.1978 by Mahant Kundan Dass Chela Mahant Atma

Dass, who was founder of the Ashram/society, which was constituted for upliftment and development of downtrodden Balmiki Community as well as Sadhu/Sant/Balmikies. After the death of Mahant Kundan Dass, defendant No.1 was elected as President and defendant No.2 was elected as Cashier on 03.09.2003. They committed embezzlement in the funds/income of the society and transferred the money of the society to their personal accounts. The Registrar, Firms and Societies wrote letters dated 06.08.2010 and 03.01.2011 calling for audit report which was not sent. Mahant Rattan Dass, who was Vice President of the plaintiff Ashram served a legal notice on 21.01.2012 calling upon the defendants to prepare the annual account of the income and expenditure of the society and put up the same before the General Body for approval and also to get it checked from qualified Chartered Accountant but the defendants did not care for the same. On the information received under the Right to Information Act, it transpired that all the income of the Ashram has been deposited in the personal account of defendants. The society vide resolution No.2 dated 10.02.2012 removed the defendants from the post of President and Cashier and asked them to give explanation regarding the above amount and properties, which they have not rendered.

3. The defendants contested and controverted the claim of the plaintiff and denied that Mahant Rattan Dass Chela Mahant Kundan Dass was elected as President of the society. All the other averments regarding embezzlement of income of the plaintiff, were controverted, inter-alia pleading that defendant No.1 is old and helpless lady aged about 90 years.

She had been getting her entire work done from Bachna Ram son of Pyare

Lal, who at one point of time forged and fabricated a Will dated 12.11.2010 concerning her land bearing khewat No.1854, khatauni No.2107, khasra No.209(1-12), which was later on got cancelled by her. After the death of Mahant Kundan Dass, she being his disciple became *Adhyaksh*(President) of the plaintiff Ashram/society.

4. Learned Additional Civil Judge (Senior Division), Kurukshetra on appraisal of the evidence, found that the defendants have misutilized and misappropriated the funds of the society and also deposited the entire income of the Ashram in personal account of defendant No.1. It was also observed that Mahant Rattan Dass was elected as President of the Society vide resolution No. 2 dated 10.02.2012 and the defendants were removed from the post of President and Cashier vide above resolution. The defendants could not produce any evidence to shatter the documentary evidence produced on record by the plaintiff.

5. Learned counsel for the appellant-defendant No.1 has argued that the suit filed by the plaintiff was not maintainable as it was not filed under Section 92 of the Civil Procedure Code (for short-CPC) and has relied on the observations in case of *Desraj Chela Baba Shri Hazur Singh Maharaj and others Vs. Association of Radhaswami Dera Baba Bagga Singh at Tarn Taran and others 2003 AIR (Raj) 27*.

6. The instant suit has been filed by the society itself through its duly authorized person. The provisions of Section 92 CPC have no relevance to the instant case, as such, this argument of learned counsel for the appellant-defendant No.1 has no merits.

nowhere the case of the appellant that above findings are not based on evidence on record or are the result of misreading of evidence.

8. On perusal of paper book and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

9. No substantial question of law requiring determination arises in this appeal, which has no merits.

10. Dismissed.

November 17, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE