

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5786 of 2014 (O&M)

Date of Decision: 22.04.2016

Murti Shiv Mandir

... Petitioner(s)

Versus

Shiv Mandir Sewa Samiti and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. S.S.Salar, Advocate
for the petitioner(s).

Mr. Nitin Goyal, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 5.3.2014, passed by the learned Additional District Judge, Panchkula, whereby appeal of the petitioner against order dated 1.3.2013, passed by the Court of first instance refusing injunction against the respondents, was dismissed.

Relevant facts of the case that petitioner had filed the main suit before the Court of first instance *inter alia* taking the plea that

Mahant Madan Giri Chela Shri Hari Ram Giri is Mahant of Murti Shiv Mandir and he was appointed as Mahant by the competent society and certificate in this regard was also issued. Earlier, Mahant Laxmi Giri was Pujari of Shiv Mandir and after his death, his son namely, Mahant Hari Ram came into possession of the suit land and after the demise of Mahant Hari Ram, Mahant Madan Giri has become Mahant and he is doing the work of Pujari in the Shiv Mandir. The entire management is being looked after by the petitioner, whereas the respondents are strangers and they threatened to interfere into possession of the suit land and wanted to grab the same and for that purpose, plaintiff filed the main suit. Along with the suit, an application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC was filed for *ad interim* injunction and the said application was dismissed by the Court of first instance. Petitioner filed an appeal against the said order and the appeal was dismissed by the first Appellate Court.

Learned counsel for the petitioner submitted that the Courts below have failed to appreciate that present petitioner is Mahant of the Shiv Mandir, duly appointed as such. The suit was filed by Murti Shiv Mandir and the same was filed through Mahant Madan Giri Chela Shri Hari Ram Giri. The respondents have got no right and the Courts below fell in error while deciding the controversy with the presumption that Mahant Madan Giri might be claiming injunction against the defendants in his personal capacity and as such the orders passed by both the Courts below are liable to be set aside.

Learned counsel for the respondents submitted that the

Court below has rightly dismissed the application because petitioner has got no locus standi to file an application for ad interim injunction. Petitioner was simply appointed as Pujari and his role was limited. Lateron, he was removed from his duty. He was never appointed as Mahant and both the Courts below have already returned the concurrent findings of facts while deciding the application and present petition is without any merit and the same be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that present petition is against the concurrent findings of facts having been recorded by both the Courts below after appreciating the entire material and evidence available on the file. Otherwise also, the Court below scanned the revenue record showing that suit land was in the possession of *makbuza malkan*. More so, Shiv Mandir was constructed by gram panchayat of village Maranwala and the names of Mahant Madan Giri or predecessor-in-interest, namely Mahant Hari Ram and Laxmi Giri are nowhere reflected in the revenue record. That way, the Courts below have rightly declined the contention of the petitioner that he was appointed as Mahant. The Courts below also appreciated the facts available on the file that the suit land for the temple was purchased on 17.11.1977; the petitioner took the plea that Madan Giri was working there for the last 33 years; petitioner was appointed as Mahant on 15.1.2011 and the date of birth of Mahant Madan Giri is 19.12.1971. That way, contention of the petitioner was found to be factually incorrect.

The Courts below have also rightly observed that respondent No.1 is a registered society and respondents No.2 to 6 are managing the affairs of respondent No.1. On these facts, the Courts below rightly observed that the petitioner was neither in possession of the suit property nor he was ever appointed as Mahant, rather he was Pujari of the temple only and in his capacity as such, he was not entitled to seek any *ad interim* injunction and the Courts below rightly dismissed the application by recording concurrent findings of facts, which do not call for any interference by this Court.

In view of the observations made above, present petition stands dismissed being devoid of any merit.

(Shekher Dhawan)
Judge

April 22, 2016
"DK"