

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

106

Regular Second Appeal No.2158 of 2015 (O&M)
Date of Decision: May 10, 2016

Kulwinder Singh

...Appellant

Versus

Gram Panchayat village Palli Jhikki, Tehsil Nawan Shahr,
District SBS Nagar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. A.P. Kaushal and Mr. Navjot Singh, Advocates
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 16.12.2013 passed by the Civil Judge (Junior Division), S.B.S. Nagar, whereby the suit filed by respondent No.1-plaintiff for permanent injunction restraining the appellant-defendant No.1 as also respondents-defendants 2 and 3 from installing electric connection in the suit property which according to the plaintiff is a saran and according to the appellant-defendant No.1 a langar hall, has been decreed, appeal against which preferred by the appellant-defendant No.1 has been dismissed by the Additional District Judge, Shaheed Bhagat Singh Nagar, on 07.03.2015.

2. It is the contention of learned counsel for the appellant that the judgments and decree as passed by the Courts below are not sustainable in the light of the fact that the Courts below have not appreciated the pleadings and the evidence brought on record in the right perspective. He contends that there has been miscarriage of justice as the admissions on the part of the witnesses, who had appeared on behalf of respondent No.1-plaintiff-Gram Panchayat, has not been taken note of. That apart, he asserts that the

possession having been established of the appellant-defendant No.1, who is the President of the Gurdwara Singh Sabha Dashmesh Langar Management Committee, is entitled to the release of electricity connection as he is not wanting it in his personal capacity but as a Management Committee of the langar hall. He, therefore, contends that the present appeal may be allowed and the suit of respondent No.1-plaintiff-Gram Panchayat be dismissed.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned judgments but find myself not in agreement with his assertions.

4. It has been proved on record on the basis of the jamabandi for the year 2008-09 Exhibit P-15 that the Gram Panchayat is the owner in possession of the suit property. The entry in the revenue record depicts that the suit property is a gairmumkin saran which has been constructed on the Gram Panchayat land. That apart, from the oral evidence which has been produced on record, especially the statement of the witnesses, who had appeared on behalf of respondent No.1-plaintiff-Gram Panchayat, it is apparent that the disputed building was constructed about 25-30 years ago. Even no suggestion has been put to the witnesses in their cross-examination indicating any dispute with regard to the factum as asserted in the statement having been made by the two witnesses, who had appeared for the Gram Panchayat. The said assertion clearly has established that the building had been constructed about 25-30 years ago. Submission of the counsel for the appellant that the Gram Panchayat has not contributed either from its funds or from the grants and the construction has been made upon the efforts and

the money which has been collected by and from the villagers, even if accepted, the same would not help the cause of the appellant-defendant No.1 as the Society which has claimed to have constructed the said building, came into existence in the year 2006 while the Committee on 21.12.2010 as per the Registration Certificate. The cash book on which reliance has been placed by the appellant-defendant No.1 Exhibit D-17 is dated 07.05.2006 which is said to be the details of collections which have been received and the amount which has been spent on the construction of the building, is of no avail as it has come on record that the building in question had been constructed 25-30 years ago i.e. in the year 1983-84 which obviously is much prior to the year 2006.

5. That apart, it has been proved on record and has also been admitted that the building in question does not have any Gurdwara Sahib. There is one Gurdwara in the village which is Gurdwara Singh Sabha and the same is situated at a distance of about half kilometre from the place where the present building stands constructed. Gurdwara Singh Sabha has its own langar hall which is adjoining to the Gurdwara. This clearly establishes that the claim of the appellant-defendant No.1 that the Society has constructed the building in dispute, is totally devoid of merit and in fact, is found to be incorrect.

6. Admittedly, while applying for the electricity connection, no document has been appended along with the application which would be in the form of any rent note, licence deed or lease deed of the property in question. The fact is apparent from the cross-examination of

DW-2 Baldev Singh, SDO, Punjab State Power Corporation Limited, Nawanshahr-respondent No.3. Apart from that, as asserted by appellant-defendant No.1 that the connection was applied for by the Managing Committee of the property, appears to be a personal family affair as it has come on record that there are two families, who constitute the members of Management Committee. Appellant-defendant No.1 being the President, his cousin Satnam Singh is a Vice President, Paramjit Singh, Member of the Committee, is his son, Harbans Singh Secretary, Davinder Singh Cashier, Gurwinder Singh Member, Baldev Singh Member, and Mohinder Singh Member belong to the same family. This clearly shows that it is more of a family affair rather than being a Management Committee of the langar hall as is being sought to be projected.

7. The effort, appears to be, to take over the possession and control of the saran which has been constructed by the contribution of the villagers for the common purpose and benefit of the residents of the village. The public property is being sought to be usurped by the appellant, which cannot be permitted.

8. No other point has been argued by the counsel for the appellant.

9. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

10. No substantial question of law is involved in the present

appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

11. In the light of the dismissal of the appeal, the application for stay i.e. CM No.5650-C of 2015, stands disposed of as infructuous.

May 10, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**