

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

**RSA No.2968 of 2014 (O&M)
Date of decision:03.02.2016**

Gurukul Kangri University Haridwar (Uttarkhand)
through Registrar and others ... Appellants

Vs.

Madan Mohan Sharma ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Jitender Dadwal, Advocate
for the appellants.

Mr. Gopal Sharma, Advocate with
Mr. Madan Mohan Sharma-respondent-in-person.

AMIT RAWAL J. (Oral)

Appellant-University is aggrieved of the concurrent findings of facts and law, whereby, the suit filed by the respondent-plaintiff/Madan Mohan Sharma, decree of declaration has been passed and he has been held entitled to obtain the degree of M.A.English (Literature) for the year 1978 from the defendants.

Mr. Jitender Dadwal, learned counsel for the appellant submits that suit was filed on 15.05.2008, whereas, degree is of the year 1978, therefore, the suit ex facie was barred by law of limitation.

The record pertaining to the aforementioned degree has been

destroyed, therefore, it was not possible to obtain the degree. The Court at Rewari did not have the jurisdiction as the University is situated at Uttarkhand. As per provisions of Sections 19 and 20 of the Code of Civil Procedure, the Court at Haridwar had the jurisdiction. Thus, there is illegality and perversity in the impugned judgments and decrees. He has drawn the attention of the Court to the fact that during the pendency of the appeal, when the execution application was filed, this Court vide order dated 10.07.2015 granted the stay.

Mr. Gopal Sharma, Advocate along with respondent-Madan Mohan Sharma, submits that during the pendency of the appeal, subsequent events have occurred, inasmuch as vide letter dated 20.01.2015, appellant has been called upon the respondent-plaintiff to deposit the requisite charges, i.e., Rs.400/- for issuance of the degree as the relevant record has been received. He further submits that concurrent findings of fact rendered by both the Courts below as per the provisions of Section 100 of the Code of Civil Procedure, cannot be challenged, thus, no substantial question of law arises for adjudication of the present appeal. He further submits that in pursuance to the aforementioned letter, respondent sent a draft of ₹400/- but the degree has not been issued on the premise that matter is sub-judice in the Court and aforementioned draft has been returned back.

I have heard learned counsel for the parties and

appraised the impugned judgments and decrees of the Courts below.

In view of the letter dated 20.01.2015, Annexure A-1, the contents of which are extracted herein below which read thus:-

*“Gurukul Kangri Vishwavidyalya, Haridwar 249 404
P & T Office Gurukul Kangri (Uttarakhand)
Letter No.Exam./Conf./2185 Dated 20.01.2015.
Sh. Madan Moahn Sharma,
57, Old Housing Board Colony,
Rewari – 123 401 (Haryana)
Sir,*

*Kindly get the reference of your letter dated
28.08.2014 sent to this University by you, wherein,
you had requested for giving degree of M.A.
(English Literature).*

*It is informed that in respect to your aforesaid
application, the relevant record has been verified.
Therefore, kindly deposit prescribed fee of Rs.400/-
in the university for issuing the degree.*

*Yours faithfully,
sd/-
Vice Chancellor”*

I am of the view that plea of destroying the record and jurisdiction will be meaningless. Non-availability of the record is a recurring cause of action therefore, suit cannot be thrown out for want of limitation. Since the respondent – plaintiff has also sent a draft of Rs.400/- as mentioned in the letter aforementioned.

As regards the plea of jurisdiction at Rewari, I am of the view that all the correspondences addressed by the University, received by the respondent-plaintiff at Rewari, therefore, part of cause of action as per Sub Section (c) of Section 20 of the Code of Civil Procedure, had arisen.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 03, 2016
savita