

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 3185 of 2014
Date of Decision:22.3.2016

Gram Panchayat Bharawas

---Appellant

vs.

Shree Chand and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.R.D.Yadav, Advocate
for the appellant

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

Rekha Mittal, J.

The present appeal has been directed against the consistent findings recorded by the courts below whereby suit filed by the Gam Panchayat, Bharawas, Tehsil and District, Rewari (hereinafter referred to as “gram panchayat”) and Rewti Nandan Dharamshala Samiti (hereinafter referred to as “dharamshala”) was dismissed by the trial court and the judgment and decree passed by the trial court was affirmed in appeal by the Additional District Judge, Rewari.

The appellant gram panchayat prayed for issuance of injunction

restraining the contesting respondents from interfering in peaceful possession, mortgaging, selling or renting out the dharamshala in question. It is averred that the gram panchayat owns property within the abadi deh of village Bharawas since long and the same is used for a dharamshala being run since 1912. The dharamshala is being used by the villagers for stay of *barat* and other public purposes. It was constructed over land of gram panchayat with consent and donations of villagers specifically Jamuna Dass, Rewti Nandan and Dev Karan sons of Ganga Sahai residents of village Bharawas and a stone was installed at the main gate showing that the dharamshala and well were constructed by the aforesaid persons in the memory of their father in the year 1912 samwat 1969.

Counsel for the appellant would contend that the courts below have failed to consider the evidence adduced by the appellant and have given unnecessary weightage to the evidence brought by the respondents-defendants. It is further submitted that the findings recorded by the courts below are the result of misreading and mis-interpretation of evidence on record. The gram panchayat passed resolution No. 3 dated 28.8.1996 whereby it was decided to give a hall and four rooms of dharamshala to the Public Health Department, Haryana Government to run a Primary Health Centre and since then Primary Health Centre is being run in the dharamshala and free medical services are being provided to inhabitants of the village. A committee was formed for proper functioning and maintenance of dharamshala vide resolution No. 3 dated 27.2.2008 and the committee was got registered on 11.6.2008 with the name of Rewti Nandan Dharamshala Samiti, village and post office, Bharawas District Rewari. The

committee is taking care of maintenance of dharamshala.

I have heard counsel for the appellant, perused the records particularly the judgments passed by the courts below.

Counsel for the appellant has informed that besides the resolutions Exs. P2 to P6 passed by the gram panchayat, there is no document on record sufficient to prove that the dharamshala was constructed on land belonging to the gram panchayat. There is also no document on record that affairs of the dharamshala constructed as back as in the year 1912 were being managed by the panchayat of the village. The appellate court has dealt with resolutions dated 9.6.1995 (Ex. P2) and dated 27.2.2008 (Ex.P4) in para 32 of the judgment and a relevant extract therefrom reads as follows:-

“Plaintiffs have proved the resolutions Ex. P2 to P6 passed by Gram Panchayat regarding the maintenance of **Dharamshala** but these resolutions do not establish the ownership of Gram Panchayat regarding the land existing towards north. The resolution Ex. P4 mentioning about the constructions of **Dharamshala** raised by Rewti Nandan on the land owned by Gram Panchayat Bharawas and the primary Health Centre being run with the permission of Gram Panchayat but this resolution was passed in the year 2008 and resolution Ex. P3 is dated 28.8.1996 but there is no resolution relating to **Dharamshala** prior to the period 1995 whereas **Dharamshala** was constructed long back in the year

1912. There is also no document showing the correspondence between the Gram Panchayat and the Health Department Haryana Government and to establish that the land on which **Dharamshala** exists is owned by Gram Panchayat.”

Counsel for the appellant is not in a position to point out any materials on record that any correspondence was made between the gram panchayat and the Department of Health, Haryana showing that land on which dharamshala exists is owned by the gram panchayat. The mere fact that gram panchayat of the village passed certain resolutions from the year 1995 onwards is not sufficient to prove that gram panchayat of the village is owner of the dharamshala in dispute, therefore, is entitled to get injunction against the respondents-defendants. On the contrary, the respondents-defendants have not denied the property in dispute to be a dharamshala meant for use by village community.

In view of the above, I do not find any error much less illegality in the consistent findings recorded by the courts below when otherwise no question of law much less a substantial one arises for adjudication. As a natural consequence, the appeal is dismissed in limine.

(Rekha Mittal)
Judge

22.3.2016
paramjit