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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 74/2016

PANDIT MOHARI LAL @ MOHAR SINGH Appellant
Through: Mr.Raj Kumar Bhartiya Advocate.

versus

MEHANT RAM CHANDER GIRI & ANR Respondents
Through: Mr.Adish Jain, Advocate.

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
% **07.12.2016**

RSA 74/2016

1. This RSA No.74/2016 has been preferred by the appellant impugning the judgment dated 22.12.2012 whereby the learned Trial Court decreed the suit filed by the respondents herein and passed a decree for mandatory injunction against him. Prayer has also been made for setting aside the order dated 20.11.2015 whereby the appeal preferred by him assailing the judgment and decree dated 22.12.2012 has been dismissed by the First Appellate Court.
2. Civil Suit No.687/2009 was filed by the respondents/plaintiffs seeking a decree for mandatory injunction in respect of the area shown as red in the site plan (Ex.PW1/1) annexed with the plaint.
3. Vide judgment dated 22.12.2012 the learned Trial Court passed a decree for mandatory injunction against the appellant/defendant limited to

RSA 74/2016

Page 1 of 3

the extent that the appellant/defendant would not function as *Pujari*/Priest of the *Mandir* thereby leaving him with no right to live in the suit premises specifically shown in the site plan (Ex.PW1/1).

4. The first appeal preferred by the appellant has been dismissed vide order dated 20.11.2015.

5. During the course of hearing of this appeal today, without prejudice to the respective rights and contentions of the parties and their pleas in the pleadings in Civil Suit No.687/2009, learned counsel for the parties have arrived at a consensus and submit that their joint statement may be recorded and this RSA No.74/2016 may be disposed of in terms of their joint statement.

6. Joint Statement of Mr.Raj Kumar Bhartiya, Advocate for the appellant and Mr.Adish Jain, Advocate for the respondents has been recorded separately whereby the parties have agreed as under:

(1) The appellant Pandit Mohari Lal shall continue performing puja in the Mandir and use the room and the area annexed with the room as shown red in the site plan ExPW1/1 (at page No.961 of TCR) annexed with plaint.

(2) The appellant Pandit Mohari Lal will not claim any ownership rights in the suit property and admits his status only to be that of a licensee.

(3) The respondents are at liberty to seek possession from the appellant on the basis of title, if any, in accordance with law.

(4) Till the respondents are able to get a decree for possession in their favour the appellant Pandit Mohari Lal, they shall not dispossess the appellant from the suit property except with due process of law.

(5) The appellant Pandit Mohari Lal will perform his duty as

Pujari in the Mandir. The appellant shall keep the Mandir open from 7.00 am to 12.00 noon and 4.00 pm to 8.00 pm (time to be displayed on the board outside the Mandir). The appellant Pandit Mohari Lal may occasionally seek assistance from his son Ashok in case he has any medical emergency or required to perform social obligation personally.

(6) To ensure that the above arrangement continues smoothly, the respondents will get a CCTV Camera installed in the temple area at their own expenses and also ensure its maintenance, if required.

7. Learned counsel for the parties submit that without prejudice to respective pleas, rights and conditions of the parties, this RSA may be disposed of in term of their joint statement which will have the effect of the appellant Pandit Mohari Lal continuing performing as *Pujari* in the *Mandir* and live in the room adjacent to the *Mandir* and utilise the bathroom, toilet etc. constructed with the residential unit.

8. This RSA No.74/2016 is disposed of in terms of above consensus arrived at between the parties.

9. LCR be sent back alongwith copy of this order.

10. As prayed, copy of the order be given dasti to learned counsel for the parties under the signature of Court Master.

CM No.9239/2016 (Stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

DECEMBER 07, 2016

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RSA 74/2016

Joint statement of Sh.Raj Kumar Bhartiya, Advocate for the appellant and Sh.Adish Jain, Advocate for the respondents, without oath:-

1. The appellant Pandit Mohari Lal shall continue performing *puja* in the Mandir and use the room and the area annexed with the room as shown red in the site plan ExPW1/1 (at page No.961 of TCR) annexed with plaint.
2. The appellant Pandit Mohari Lal will not claim any ownership rights in the suit property and admits his status only to be that of a licensee.
3. The respondents are at liberty to seek possession from the appellant on the basis of title, if any, in accordance with law.
4. Till the respondents are able to get a decree for possession in their favour the appellant Pandit Mohari Lal, they shall not dispossess the appellant from the suit property except with due process of law.
5. The appellant Pandit Mohari Lal will perform his duty as *Pujari* in the *Mandir*. The appellant shall keep the *Mandir* open from 7.00 am to 12.00 noon and 4.00 pm to 8.00 pm (time to be displayed on the board outside the *Mandir*). The appellant Pandit Mohari Lal may occasionally seek assistance from his son Ashok in case he has any medical emergency or required to perform social obligation personally.
6. To ensure that the above arrangement continues smoothly, the respondents will get a CCTV Camera installed in the temple area at their own expenses and also ensure its maintenance, if required.

RO&AC

Mr.Raj Kumar Bhartiya, Advocate
for the appellant

Mr.Adish Jain, Advocate
for the respondents.

DECEMBER 07, 2016/‘st’

PRATIBHA RANI, J.