

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

CR-6086-2013 (O&M)

Date of decision: 02.12.2017

RAJENDER KUMAR

...Petitioner

Versus

KALU RAM & ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajay Jain, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 14.08.2013 (Annexure P3) passed by the Civil Judge (Sr. Div.), Sirsa whereby application filed by the petitioner and respondent No.3, successors-in-interest of Shish Pal for issuance of directions to respondents No.1 and 2 to comply with the orders passed by this Court and hand over the mandir has been dismissed.

Perusal of records of RSA No.272 of 1998 would reveal that Shish Pal and others filed the aforesaid regular second appeal against the judgment and decree passed by the first appellate Court in appeal preferred by Hari Ram, unsuccessful plaintiff. In the two appeals, CM No.541/C/1998 in RSA No.272 of 1998 and CM No.391/C/1998 in RSA No.193 of 1998 were filed and both the applications were disposed of vide

common order dated 03.08.1998 (Annexure P4) whereby CM No.391/C/1998 filed in RSA No.193 of 1998 was dismissed but CM No.541/C/1998 filed in RSA No.272 of 1998 was allowed permitting the first defendant to act as pujari pending disposal of the appeal. Later Shish Pal son of Aad Ram appellant No.1 in RSA No.272 of 1998 passed away.

CM No.73-C-2009 was filed to allow the persons mentioned in para 11 of the application to be impleaded as legal representatives of Shish Pal (since deceased) in order to enable them to pursue the litigation and to act as pujari/manager of the mandir during pendency of the appeal. The application (CM-73-C-2009) was disposed of vide order dated 17.04.2009 and a relevant extract therefrom reads as follows:-

“This is an application for bringing on record the legal representatives (mentioned in para 11 of the application) of Shish Pal son of Aad Ram, appellant No.1, since deceased by virtue of the Will dated 31.10.2005 to act as a “Pujari” after his death.

Learned counsel appearing on behalf of the non-applicant/respondent states that he has no objection if the application is allowed.

For the reasons mentioned in the application, the same is allowed and the legal representatives of Shish Pal son of Aad Ram as mentioned in para 10 of the application are brought on record subject to all just exceptions for the purpose of this appeal only.

Registry is directed to make necessary corrections in the memo of parties.”

Subsequent thereto, CM No.5897-C-2009 was filed for modification of order dated 17.04.2009 and the same was allowed vide order dated 18.05.2009, quoted thus:-

“This is an application for modifying the order dated 17.04.2009.

Heard.

The application is allowed and legal representatives in para 11 of CMA No.73-C-2009 are ordered to be brought on record instead of para 10 of CMA No.73-C-2009.”

Perusal of the orders dated 17.04.2009 and so also dated 18.05.2009 does not substantiate contention of the petitioner that after death of Shish Pal son of Aad Ram, the petitioner/appellant or for that matter the persons allowed to be brought on record as legal representatives of deceased Shish Pal were permitted to act as pujari of the temple in dispute. The mere fact that the legal representatives made a prayer for permitting them to act as pujari of the temple (mandir) during pendency of appeal would not create a right in their favour in this regard unless specifically allowed by this Court. In this view of the matter, plea of the petitioner is highly misconceived and has rightly been rejected by the Court below.

For the foregoing reasons, the petition fails and is accordingly dismissed.

02.12.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No