

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 6996 of 2017

Date of decision : October 09, 2017

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Sheetal Dass Mahant

.....Petitioner

Versus

Gram Panchayat Village Bhasmara and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. S.K Jain, Advocate for the petitioner.

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RITU BAHRI, J.

The present revision petition has been filed under Article 227 of the Constitution to set aside the order dated 5.8.2017 (Annexure P-4) passed by the Additional District Judge, Patiala vide which the appeal against the order dated 18.4.2017 (Annexure P-2) passed by Civil Judge (Junior Division), Patiala has been dismissed.

Briefly stated, the facts of the case, are that plaintiff-respondent no.1 (hereinafter referred to as `the plaintiff') Gram Panchayat, Village Bhasmara instituted a suit for permanent injunction along with an application under Order 39 Rule 1 and 2 read with Section 151 of CPC restraining the defendants/petitioner and proforma respondents (hereinafter referred to as `the defendants') from interfering, in any manner, in

possession of samadhas of Baba Ramji Dass Ji, Baba Lal Dass Ji and predecessor of the village Udham Chand and the site of khasra no. 53 (2-13) situated at village Bhasmara. It was also prayed that defendant no.1 be restrained from living in or entering in the rooms situated in the said khasra number and the defendants, their agents and servants be restrained from damaging or changing the nature of construction and from interfering in the constructed samadhas of Baba Ramji Dass Ji, Baba Lal Dass Ji and Baba Udham Chand ji in Village Bhasmara and the consolidation has reserved the site of khasra no. 53 (2-13) for the said purpose. Said samadhas were looked after and managed by the villagers and thereafter when the panchayats were constituted then under the management of Gram Panchayat. The villagers and Gram Panchayat raised two rooms and a varandah in the site of said samadhas. One Sita claiming herself as Sheetal Dass Ji belonging to Village Hassanpur had been previously visiting and attending the samadhas. Two years ago, she came to village Bhasmara and claimed that she has been turned out of her house by her family members. She claimed mercy from the panchayat of village Bhasmara as well as residents of the village. As such Gram Panchayat and villagers allowed her to stay in one of the rooms and where she is living for the last two years. The boundary wall had also been raised on eastern side and on southern side of khasra no. 53 (2-13). There was site of goharas of the villagers on eastern side of khasra no. 53 (2-13) in which villagers were keeping their cow-dung cakes and were also placing their goharas. There were samadhas in between the site of goharas and the road and same were on eastern side of the site of goharas. The villagers with the help of Gram Panchayat used to arrange langars etc. In the suit, it was pleaded that the defendants are

threatening to encroach upon the site of samadhas as well as the site of goharas.

Pursuant to notice, defendants no. 2 to 6 appeared and filed written statement. The stand taken by defendants no. 2 to 6 in their written statement was that a private Committee has been formed by the inhabitants of four villages i.e Bhasmara, Raju Singh Kheri, Jalah Kheri and Sadhu Nagar and Sheetal Dass was appointed as head of the Committee to look after the samadhas. Rooms and varandah were constructed by the villagers of Bhasmara and Panchayat. Construction material was donated by the inhabitants of above said four villages and Dwarka Dass. Sheetal Dass was chela of Dwarka Dass and was staying in village Bhasmara since 2002. During lifetime of Dwarka Dass, Sheetal Dass used to serve Dwarka Dass and used to take care of the dera and also used to perform the rituals/religious duties over there. Dwarka Dass during his life time declared that Sheetal Dass will be the Mohitmim of the samadhas. In the year 2009, Sheetal Dass was specifically nominated as Mahant/Mohitmim of samadhas by the Bheikh i.e Panchayati Akhara Baba Udaseen Nivan, Rajghat Kankhal, District Haridwar in the presence of respectable persons. They further stated that this land is shamlat land and belonged to samadhas and the villagers of the village are illegally occupying the same and are in unauthorized possession of the same. The said wall was constructed by Sheetal Dass at her own costs but forcibly demolished by the persons who illegally occupied the land by putting their gohara and dung cakes.

The trial Court granted injunction in favour of the Gram Panchayat vide order dated 18.4.2017. Aggrieved from the impugned order, defendant no.1 instituted an appeal and the same was also dismissed by

Additional District Judge, Patiala vide its order dated 5.8.2017.

While dismissing the appeal, lower appellate Court observed that in the revenue record i.e jamabandi for the year 2011-12, it is not disputed that khasra no.52 falling in Khatoni no.216 depicts the ownership with the Gram Panchayat, whereas in the column of cultivation as well as nature of land, it has been depicted as gair mumkin samadh measuring area of 2-13. Khasra no. 52 is adjoining khasra no. 53. Gram Panchayat sought injunction only qua khasra no.52 where attempt has been made to encroach it by the defendants who are managing the samadhas located in khasra no.53 (2-13). The defendants could not raise any construction or encroach upon the said land and their right was only to manage the Samadhas which were located in khasra no.53. Since Gram Panchayat was recorded to be owner in the jamabandi for the years 2011-12 of khasra no.52 falling in khatoni no.216, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was rightly allowed.

There is no infirmity or illegality in the judgments passed by the Courts below that require the interference of this Court. In view of all that has been discussed above, present revision petition is dismissed.

October 09, 2017

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No