

CWP No.7275 of 2015

{1}

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

**CWP No.7275 of 2015
Date of decision:13.02.2017**

Navdeep Kumar and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CWP No.18894 of 2015

Sewak Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. A.P.S.Shergill, Advocate
for petitioners (in CWP No.7275 of 2015).

Mr. R.C.Sharma, Advocate
for the petitioners (in CWP No.18894 of 2015).

Mr. Yatinder Sharma, Addl.A.G.Punjab.

Mr. Kuldeep V.Singh Ahluwalia, Advocate
for respondents No.8 to 48.

Mr. Aman Arora, Advocate
for the Gram Panchayat.

AMIT RAWAL J. (Oral)

C.M.No.13758 of 2015 in CWP No.18894 of 2015

Learned counsel for the petitioners seeks leave of the Court for withdrawal of the present application for impleading respondents No.8 to 48.

In view of the aforementioned, the application is ordered to be dismissed as withdrawn.

CWP Nos.7275 and 18894 of 2015

This order of mine shall dispose of two writ petitions bearing No.7275 and 18894 of 2015, whereby, the prime challenge is to the formation of trust deed. The petitioners have sought the following prayer which reads thus:-

“Civil Writ Petition under Article 226/227 of the Constitution of India praying for the issuance of a writ of certiorari quashing the order vide which the illegal impugned trust deed dated 21.01.2015 (Annexure P-7) and subsequent proceedings 05.03.2015 and 30.03.2015 (Annexure P-8) conducted on the basis of the alleged incorporation of the trust deed which is unconstitutional and illegal and in total violation of Section 4 of Indian Trust Act 1882 and in gross violation of the earlier instructions/directions issued by the respondent no.2 vide reference number 2466-2477 dated 20.09.2013 (Annexure P-6) which directions/instructions were duly passed in compliance of the order dated 02.09.2013 (Annexure P-5) passed by this Hon'ble Court; AND

For issuance of a writ in the nature of mandamus or any other appropriate writ directing the respondents to abide by the earlier directions issued by the respondent no.2 vide order dated 20.09.2013 (Annexure P-6); AND

For the issuance of any other appropriate Writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case; AND

It is further prayed that during the pendency of the present writ petition, operation and implementation and any proceedings/transactions initiated on the basis of the impugned trust deed (Annexure P-7) may kindly be stayed during the pendency of present writ petition. All the further auction proceedings of all the Articles (jaggery (gur), wheat, wheat flour, cloth) including the one which is being held at the site of Baba Jogi Peer for 13.04.2015 may also kindly be stayed during the pendency of the present writ petition.”

From the perusal of the aforementioned, it reveals that challenge in the present writ petitions is to the formation of the trust deed (Annexure P-7), whereby, the certain members have been inducted as trustees. It has been brought to the notice of this Court that a civil suit bearing No.223A of 2016 titled as Darshan Singh Chahal and others vs. Baba Jogi Pir Trust and others, is already pending adjudication before the Civil Court since 21.11.2016. Once the formation of the trust has already been challenged though by different persons, two parallel proceedings with regard to the same cannot continue. Since the suit is at the initial stage filed in 2016, the petitioners are at liberty to file a different civil suit indicating the factum of pendency of earlier suit so that both are tried together, in case, they feel that the suit is not being proceeded with vehemence and diligence,

much less the plaintiffs therein have not colluded with the respondents, as all disputed question of fact which cannot be adjudicated in a writ Court as detailed evidence is required.

The writ petitions stand disposed of with the liberty
aforementioned.

(AMIT RAWAL)
JUDGE

February 13, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No