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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1365-2013 (O&M)
Date of decision-03.08.2017

Hari Chand and others

...Appellants

Vs.

Murti Shiv Ling Ji Maharaj,
through worshipper

...Respondent

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Nitin Jain, Advocate
for the appellant(s).

Mr. Arvind Bansal, Advocate
for respondent(s).

AJAY TEWARI J. (Oral)

Periodical report of Tehsildar, Kaithal is accepted and taken on record.

I deem it appropriate to implead State of Haryana as respondent No.2. Registry is directed to make necessary amendment in the memo of parties.

On the asking of the Court, Dr. Sushil Gautam, DAG, Haryana accepts notice on behalf of the respondent-State. Learned counsel undertakes to handover the copy of the paper book.

This appeal has been filed against the concurrent judgment of the Courts below holding the appellants to be unauthorized occupants of the land belonging to Murti Shiv Ling Ji Maharaj, Shiv Mandir Sismor, District

Kaithal-respondent.

Learned counsel for the appellants states that there is no dispute with the proposition that the appellants are not owners or lessees of the land or that they are bound to pay for the use and occupation charges for the benefit of the Mandir. Their whole dispute is with the respondent-Committee which they say is a usurper.

On the other hand, counsel for the respondent has argued that the *mala fides* of the appellants can well be gauged by the fact that after receiving notice of the present suit they formed a Samiti to counter the present respondent. As per counsel for the respondent, the Appellate Court had rightly declared that the Tehsildar Kaithal would look after the affairs of the Committee and the respondent has no objection to the same whereas appellants have been unauthorized occupants of this land for the last 23 years and it is only under the pressure of this Court that they deposited the amount of ₹15 lacs and that to only up to January, 2014. Before acting on their protestations of good faith they should be directed to pay money for occupying the land unauthorizedly from January, 2014 till today. Learned counsel for the appellants has no objection to paying whatever amount this Court may deem appropriate from June, 2014 till the harvest of the current crop and further states that thereafter, land may be re-auctioned and in case they are not the highest bidders they undertake to vacate the land in favour of the highest bidder without any dispute.

In view of the broad agreement between the parties about the future management of the property attached to the respondent-Mandir, I

direct that a Committee under the Chairmanship of SDM, Kaithal, District Revenue Officer, Kaithal and Tehsildar, Kaithal as members would henceforth manage the affairs of this Mandir and its proper upkeep. The appellants will deposit a sum of ₹3.5 lacs as occupancy charges from January, 2014 till the April (harvest) of 2019.

The Committee now appointed on agreement of all the learned counsel would determine the period for which the lease hold is to be created and will put in place safeguards including registration thereof to ensure that nobody can occupy the land beyond the lease period. The auction be conducted in the month of April. The Committee would also ensure that the rent be deposited in advance by the successful bidder on yearly basis.

I have been informed that there is already a Bank account in the name of respondent No.1 which is presently being administered by the respondent No.1. The Manager, Gramin Bank, Village Harshhola, IFSC Code PUNBOHGB001 is directed that the Bank account would now be operated by the Committee appointed by this Court today.

The Registry of this Court is also directed to transmit the amount of ₹15 lacs already deposited by the appellants to the account No. 80930100070703 of the Mandir. In case, appellants deposit the amount of ₹3.5 lacs in this account on or before 31.08.2017, the execution shall remain stayed. If the amount is not deposited by that date, the executing Court will proceed to take the possession immediately and hand it over to the Committee appointed by this Court.

The present appeal is disposed of in these terms in view of the

agreement of counsel for the appellant and respondent and the DAG,
Haryana.

(AJAY TEWARI)
JUDGE

August 03, 2017
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No