

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.2393 of 1996 (O&M)

Date of Decision : 27.03.2018

Daya Singh

..... Appellant

Versus

Shiromani Gurdwara Parbandhak Committee,
Amritsar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Kuldip Sarswat, Advocate
for the appellant.

Mr. S.S.Mattewal, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the Sikh Gurdwara Judicial Commission, Amritsar ordering recovery of Rs.2,200/- alongwith interest against the appellant.

The brief facts are that the appellant was a member of the local Management Committee, Gurdwara Guru Hargobind Sahib, Village Durgapur, Teh. Nawanshahar, District Jalandhar. There was some agricultural land belonging to the Gurdwara, which was auctioned for two years i.e. 1977-1978 and 1978-1979. The highest bid was given by Gurdev Singh s/o Pheru. The allegation was that actually Gurdev Singh s/o Pheru was a fictitious person and actually the land was being cultivated by the appellant and his son and not only did he misused his position to take the land on a name of a fictitious person he even did not pay Rs.2,200/- which

was due as rent. The main plea taken by the appellant was that prior to the

filing of the instant petition the local Managing Committee had instituted a regular claim for recovery of rent before the competent Court i.e. the Assistant Collector, First Grade, Nawanshahar and that petition was dismissed and that order had become final and consequently the second petition for recovery could not lie. The Commission, however, held that this recovery had been sought under Section 142 of the Sikh Gurdwara Act, 1925 and therefore, the dismissal of the previous application for rent could not come in the way of this case and that is how the appellant is before this Court.

Learned counsel for the appellant has argued that the approach of the Commission was manifestly wrong. As per him, once the claim for the same rent had been laid before another competent Court and had been rejected and that decision had been allowed to become final it could not lie in the mouth of the respondent to file a claim for the same rent under a different statute.

Learned counsel for the respondent has, however, argued that the first claim was not made by the present appellant but by the local Managing Committee. He has however, fairly accepted that the local Managing Committee works under the supervision of the respondent.

In the circumstances, it is hard to resist the argument of the learned counsel for the appellant. Once the competent Court had held that the rent was not payable and that decision had become final the same could not be re-opened by a parent body under a different statute.

Consequently, the appeal is allowed and the impugned order is set aside.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

27.03.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No