

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

RSA No.4216 of 2011 (O&M)

Date of decision : 03.04.2018

Sheodan

...Appellant

Versus

Ramesh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Alok Jain, Advocate for the appellant.

Mr. Amit Jain, Advocate for respondent Nos.1 to 5 and 7 to 10.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff does not claim any right, title or interest in the property. The plaintiff only claims that he is in physical possession of the property for more than 12 years. He claims that he is in settled possession of the property which is religious in nature as there is a Shiv Temple and Dharamshala. He also claims that he along with his family are residing therein.

The defendants contested the suit pleading that there is an old temple and a Dharamshala. It is further pleaded that the property is managed by Panchayat Bhawan Shiv Mandir Manav Samiti. It is further pleaded that father of the plaintiff was engaged as a Pujari in the temple and after the

death of the father, the plaintiff has been performing the ceremonies in the temple, however, the plaintiff had in fact embezzled the funds and used to drink and, therefore, he was removed by passing a Resolution dated 18.11.2001 Ex.D5 and Resolution dated 03.02.2002 Ex.D6 on the file.

Both the Courts below after appreciation of the evidence available on the file has dismissed the suit filed by the plaintiff and allowed the counter claim filed by the defendants directing the plaintiff-appellant to hand-over the vacant possession of the premises.

This Court has heard the arguments of the learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record.

Learned counsel for the appellant has vehemently argued that the society was registered during the pendency of the suit. He has further submitted that the plaintiff is admittedly in possession and, therefore, he cannot be dispossessed by the defendants. He has submitted that only owner of the property can dispossess the plaintiff.

In the considered opinion of this Court, the arguments of the learned counsel for the appellant are entirely without any substance. The property is religious in nature. There is a temple namely Shiv Temple in the premises. The religious property vests in the Idol. The Idol has to act through someone. In the present case, the plaintiff himself had impleaded the defendants as a party in the suit. The defendants have pleaded that they are managing the property of the temple after getting registered as a society. Earlier this Society was unregistered and subsequently it was got registered. Such being the position, the plaintiff, whose engagement has already been

terminated/dispensed with, has no right to stay in the property. A careful reading of the Resolutions Ex.D5 and Ex.D6 prove that the plaintiff has been directed to vacate the rooms in his possession.

In view of the aforesaid, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

03.04.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**