

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

**RSA No.350 of 2016 (O&M)
Date of Decision.13.11.2018**

Gurchetan Singh and others

.....Appellants

Vs

Dera Lakh Data Peer Negaha Charitable Trust

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sarju Puri, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The appellants-defendants alleging themselves to be office-bearers of the respondent-Trust have been enjoined not to interfere and dispossess the Trust from the suit property measuring 6 kanals 10 marlas comprised in Khata No.594/648, Khasra No.80/1 as entered in the jamabandi for the year 2005-2006 situated in the area of village Garhi Ajit Singh, Tehsil and District Nawanshahar.

The suit aforementioned was based on the premise that they are licensee as per the licence issued by the Wakf Board and defendants wanted to interfere asserting themselves to be office bearers or trustee of the plaintiff and threatened to dispossess.

The defendants opposed the suit on the premise that plaintiff had not been in possession of the suit property as the licence had already expired. The suit was nothing but a mala fide intention to cause obstruction in the organization of *mela*, which is held every year.

On the preponderance of evidence, the trial Court found that plaintiff had been in possession of the property and enjoined the defendants. The appeal taken before the lower Appellate Court did not yield better result than the one rendered by the trial Court.

Mr. Sarju Puri, learned counsel appearing on behalf of the appellants submitted that the plaintiff under the garb of the injunction attempted to amalgamate the other property i.e. Rect. No.57 whereas the injunction is only confined to Khasra No.80/1. The injunction could not have been granted as the plaintiff failed to establish possession, therefore, there is illegality and perversity.

I am afraid aforementioned argument is not sustainable. If at all, the defendants were office-bearers, trustees or the other members of the Trust, they had individual right to assert by way of setting up a counter-claim and injunction, as consequential relief. Having failed to do so, threat perception proved on record cannot be tinkered with. The factum of possession despite expiry of the licence had also been proved on record. Defendants cannot be permitted to agitate the factum of expiry of the licence as it is matter between the plaintiff and the Wakf Board. As regards grievance of amalgamation of Rect. No.57, the same can always be taken up in case the plaintiff seeks execution of the decree, in accordance with law.

As an upshot of my finding, I do not find any illegality and perversity in the judgments and decrees rendered by both the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 13, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No