

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4044 of 2016 (O&M)

Date of Decision: November 16, 2018

Lakha Gir Chela Mahant Darbara Gir of Balran

...Appellant

Versus

General Public & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Harsh Aggarwal, Advocate,
for the appellant.

AMIT RAWAL, J.

Appellant-plaintiff has not been successful in claiming declaration and mandatory injunction to be duly appointed as Mahant and Mohatmim of Dera Dhuna Sahib Village Chhahar, Tehsil Sunam, District Sangrur along with consequential relief of injunction and as well as owner of the agricultural land and also with regard to the declaration by claiming amount deposited by the Receiver with the State Bank of Patiala and for mandatory injunction for appropriate direction to the Receiver to hand over and deliver the possession of the properties of the Dera.

It was stated that one Lachhmi Gir Chela Mukhtiar Gir was the Mahant and Mohatmim. After his demise in 1976, for the purpose of Mohatmimship of the Dera and about the management of the suit property, litigation started between Chetan Gir and some residents, worshipers of the Dera on one hand and Harjinder Singh on the other hand, who claimed to be Chela. The suit filed by Chetan Gir was decreed on 05.02.1980. Harjinder Singh filed an appeal but during the pendency he died and one Dulla Singh

alleging himself to be Chela of Harjinder Singh, moved an application for impleadment as legal heir. The appeal was dismissed on account of non-existence of right to sue. Revision preferred in this court was also dismissed. While dismissing the revision, this court also noticed that the suit property was already in possession of the Receiver as per the order of the court and the income derived from defendant No.2 was being deposited with the bank, but the Receiver did not pay attention to maintain the building of Dera Duna Sahib, Chhahar. As per the custom of said Dera, only a Sanyasi Sadhu belonging to Giri sect was appointed as Mahant and Mohatmim. Various other pleas in support of the aforementioned claim were taken.

Defendant Nos. 1 and 2 were proceeded ex-parte. Defendant No.3- State Bank of Patiala contested the suit and admitted the appointment of defendant No.2 as Receiver on 26.05.1999 and the deposit of the amount of ₹ 7837-38P upto 22.09.2003. One Kartar Gir, on an application filed for impleadment, was arrayed as defendant No.4 and assailed the locus standi of the plaintiff and maintainability of the suit. On merits, disputed the suit property to be ownership of Dera Dhuna Sahib. Plaintiff, as per the averment, belonged to 14 Marri and he was Chela of Lachhmi Gir and had been managing and looking after the property of the Dera.

Plaintiff, in support of the aforementioned averments, examined ten witnesses and also brought on record documents Ex.P1 to Ex.P59. On the other hand, defendants examined three witnesses and brought on record documents Ex.D1 to Ex.D12 including Ex.DA.

In rebuttal, plaintiff brought on record Ex.P60 to Ex.P68.

On the basis of the aforementioned documents, the trial court held that the plaintiff was not appointed as Mahant of the Dera. Document

Ex.P50, a certificate allegedly issued by Mahant Parmanand Sarswati was not proper for appointment as it was to be appointed as Bhekh. Appeal taken to the Lower Appellate Court has also been dismissed.

Mr. Harsh Aggarwal, learned counsel representing the appellant-plaintiff submitted that there has been gross illegality and perversity in the findings rendered by both the courts below as defendant, who allegedly claimed himself to be Mahant and Mohatmim, had a criminal background. The same is evident from documents Ex.P60 to Ex.P64. The certificate and the identity card verified the appointment of the appellant as Mahant of the Dera. The work and conduct of the plaintiff was appreciated by the Gram Panchayat as per resolution dated 21.08.2003 Ex.PW6/A. Once the claim of defendant No.4 qua Mohatmimship after the death of Lachhmi Gir was declined, the suit should have been decreed.

I am afraid that the aforementioned argument is not sustainable as the certificate and the identity card cannot be a ground for conferring the status of Mahant and Mohatmim as it is regulated by a customary usage and not by any other document. No witness of the Bhekh ceremony has been examined. The aforementioned view of mine is derived from the ratio decidendi culled out by this Court in **Iqbal Singh Versus Santokh Singh and another**, AIR 1984 Punjab and Haryana 366. The proceedings of Bhekh ceremony have to be proved through the testimony of the witnesses. Each institution is governed by the customs and practice. The evidence led by the plaintiff allegedly being Chela of Lachhmi Gir does not lend support regarding the appointment. The congregation ceremony has not seen the light of the day.

In my view, the plaintiff has miserably failed to prove the

essential ingredients, as noticed above, for claiming the declaration as Mahant and other consequential reliefs. The findings of fact and law arrived by the courts below cannot be faulted as there is no illegality or perversity. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

November 16, 2018
ramesh

(AMIT RAWAL)
JUDGE

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