

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

RSA-2666-2015 (O&M)
Date of Decision : 09.05.2018

Kashmir Singh

..... Appellant

Versus

Narinder Pal Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Birender Singh Rana, Sr. Advocate
with Mr. Parveen Kaushik, Advocate
for the appellant.

Mr. Gurvinder Singh Sidhu, Advocate
for respondents No.1 to 3.

Ms. Amanpreet Kaur, Advocate
Local Commissioner.

Mr. Kanwaljit Singh, Sr. Advocate and
Ms. Puneet Kaur Sekhon, Advocate
for SGPC.

AJAY TEWARI, J. (Oral)

Today the report of the Local Commissioner has come as per which the respondents No.1 to 3 took oath before the Guru Granth Sahib that they have not received any money from the appellant and further that the respondents took the oath individually and the oath was audible to the Local Commissioner and both the parties signed their presence.

Learned senior counsel for the appellant on instructions from the appellant, who is present in court, has very fairly stated that the appeal may be dismissed. He has however prayed that the direction in the

impugned judgment regarding initiation of criminal proceedings against the appellant may be deleted.

Counsel for the respondents No.1 to 3 on instructions from his clients states that in case the appellant hand over their share of the land i.e. 24 kanal 14 marla to the respondents No.1 to 3 in a time bound manner they would not object to the deletion of that portion of the judgment. On instructions from his client the learned senior counsel for the appellant states that there is one tak of land of 4 acres and one tak of land of 2 acres and the appellant will hand over the possession of 2 acre tak and 1 acre 14 marlas out of the tak of 4 acres of land to the respondents No.1 to 3 immediately and thereafter the parties can proceed to partition the land as per law. In my opinion, this is a fair statement and since in any case, the wheat harvest has taken place, the lands are lying vacant and the possession can be transferred immediately.

In the circumstances, the appeal is dismissed with the clarification that the direction regarding criminal prosecution would be in abeyance for a period of one month. In case the appellant hands over the land as mentioned today to the respondents No.1 to 3 within 15 days (and the respondents No.1 to 3 make a statement to this effect before the Executing Court) that part of the judgment would stand deleted. Parties are directed to appear before the Executing Court on 24.05.2018 for this purpose.

Having finally decided the case there is another issue which has come before me. Mr. Kanwaljit Singh, Senior Advocate and Ms. Puneet Kaur Sekhon, Advocate have appeared on behalf of the Shiromani

Sikhism taking of oaths was frowned upon by the Tenth Guru and the order of this Court would foster such actions. They have further stated that though the matter has been resolved in the present case yet the Court should be more circumspect in making such orders.

I want to place on record that the order of previous date was not passed at the behest of the Court. It was not a case where one party had asserted that he would take oath and the other party should accept it, but it was a case where the appellant had himself stated that if the respondents No.1 to 3 take an oath in the Gurudwara Sahib he would withdraw his appeal. The appellant may or may not have had any faith in the respondents but he had such implicit faith in the Almighty that he was willing to accept an oath of the respondents provided they took it in the Gurudwara Sahib. There are many cases where such arrangements are resorted to outside the Court and disputes decided. Even otherwise, statements on oath are an integral part of taking evidence. Further oath is prescribed for various public offices.

An identical position had emerged in the case of ***K.M. Singh vs. Secretary, Association of Indian Universities and others, (1992) 3 Supreme Court Cases 129***. There also a plaintiff had stated that if two named persons took special oath in the Gurudwara Sahib and Temple respectively then that part of the claim might be dismissed as withdrawn. Those two persons accepted that statement and took the oath. However, thereafter the plaintiff moved an application withdrawing his statement. That application was dismissed and the Supreme Court upheld that dismissal. A Division Bench of this Court in ***Thakur Singh and others vs.***

“The counsel for the plaintiff in his statement (which has already been quoted above) did not prescribe any special oath nor any special form of the oath but merely offered the defendant-appellant to take oath and make statement on the two crucial points in issue in a particular Gurdwara. He was not required to swear by the Gurdwara or by Guru Granth Sahib or in any other special manner. In these circumstances, it appears to us that the compromise arrived at between the counsel for the plaintiff on behalf of his client and the defendant-appellant would be covered by Section 20 of the Evidence Act.....”

In the circumstances, though this Court appreciates the concern voiced by the counsel for the SGPC yet in view of the judgments cited above there is no impediment if parties themselves agree to this course of action.

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

May 09, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No