

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

RSA No. 2862 of 2015

Date of Decision:-15.01.2018

The Managing Committee Gurudwara Thara Sahib and Baba Moga Ji

...Appellant

Versus

Chatwinder Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manish Dadwal, Advocate
for the appellant.

AMIT RAWAL J.

The appellant-plaintiff is in regular second appeal against the concurrent findings of fact whereby the suit claiming following relief has been dismissed :-

“Suit for declaration to the effect that Baba Lokhoji Baba Moga Ji Trust Village Ganeshpur, Tehsil Garshankar, District Hoshiarpur Registration No.14 dated 28.4.2003 is illegal, null and void which does not effect the rights of Managing Committee Gurudwara Thara Sahib and Baba Moga Ji Village Ganeshpur Tehsil Garshankar District Hoshiarpur. Registration No.91 dated 18.7.2001 with consequential relief of permanent injunction restraining the defendants from interfering in the working of Managing Committee Gurudwara Thara

Sahib and Baba Moga Ji Registration No.91 dated 18.7.2001 to manage the affairs or looking after Gurudwara Thara Sahib and Baba Moga Ji or restraining the defendants from forcibly operating/opening the Golak/Galla of Gurudwara Thara Sahib and Baba Moga Ji and the defendants be also restrained from collecting any type of chanda from the people on the name of Baba Lakha Ji Baba Moga Ji Trust Registration No.14 dated 28.4.2003.”

Mr. Manish Dadwal, Advocate learned counsel for the appellant submitted that the aforementioned suit was filed on the premise that a compromise was effected between plaintiff Committee and Jagir Singh and another on 27.4.2003 in the presence of respectable of Panchayat. The defendants admitted in the compromise the claim of the plaintiff Committee over Gurudwara Thara Sahib and Baba Moga Ji. It was also agreed that the plaintiff Committee would operate the Golak of Baba Moga Ji on each and every Monday. The Managing Committee of Mandir Baba Lakho Ji Village Ganeshpur, Tehsil Garshankar, District Hoshiarpur had already been registered on 26.7.1973 vide Registration No.164 and therefore, the defendants had no right to get re-registered the Committee of Baba Lalho Ji and Baba Moga Ji Trust under Registration No.14 dated 28.4.2003. Resultantly, the defendant No.1 got himself appointed as President whereas defendant No.2 himself got appointed as Vice President and other defendants No.3 to 9 as executive members whereas defendant No.10 was appointed as advisor of both the Trust. The main thrust of the plaint was that defendants had no connection with the Managing Committee

of Gurudwara Thara Sahib and Baba Moga Ji.

Upon notice, defendants contested the suit. Defendant No.1 filed a separate written statement whereas remaining defendants No.2 to 10 filed a joint written statement and the pith & substance of the written statement was that the Managing Committee of Baba Lokhoji Village Ganeshpur, Tehsil Garshankar was already registered on 26.7.1973 vide Registration No.164 and defendants No.2 to 10 had not signed the register. Defendants No.2 to 10 stated that the plaintiff was not in possession of any premises in which Samadh of Baba Moga Ji had been constructed. Being the part and parcel of Baba Lalkho Ji, samadhs had been under the control and management of Baba Lalkho Ji. Gurudwara Thara Sahib had no connection whatsoever with the Samadhs. There was apparent collusion between plaintiff and defendant No.1. Both the Courts below failed to ignore the following legal submissions :-

1. The Courts below did not take into consideration Ex.P-12 compromise deed dated 27.4.2003 whereby the defendants admitted the claim of the appellant-Committee.
2. The defendants did not have right to re-register the Baba Lakho ji and Baba Moga Ji under Registration No.14 dated 28.4.2003.

The contents of the written statement filed on behalf of defendants No.2 to 10 were in not correct perspective wherein it was mentioned that the offerings of Baba Moga Ji used to be given to Gurudwara Thara Sahib for the purpose of its upkeep as the income of Gurudwara Thara Sahib was meagre, which irresistibly led to conclusion

that Committee was running the affairs of samadhs as well as of gurudwara. DW3 in cross-examination also admitted that the offerings of samadh Baba Moga ji were utilized by the Managing Committee of Gurudwara Thara Sahib. Similar testimony is of DW4 and if all these aforementioned facts have been looked into conjunctively, the suit was liable to be decreed.

I have heard learned counsel for the appellant and appraised the paper book. There is no merit in the aforementioned submissions of learned counsel for the appellant and the reasons are not one but many:-

1. Ex.P-3 depicted that the election of the first management of the plaintiff-Committee but the document did not reflect the true picture. It was not a formal and regular page of the proceeding book of the Committee but a page from some cash book. The objectives of the Committee are conspicuously wanting
2. No references about the management of affairs of Baba Moga Ji Trust had come on record. Ex. P-5 is dated 31.5.2001 which envisaged that the elections to be held on 31.5.2001 but as per the proceedings Ex. P-4, the tenure of the elected membership was to run for three years i.e. from 21.3.1999 to 21.3.2002 but the elections in an unprecedented manner were conducted on 21.5.2001.
3. The stipulated period of the elected membership was for the reasons best known were arbitrarily enhanced from

three years to five years.

The fact that plaintiff has miserably failed to prove that the management of Baba Moga Ji Trust was ever with it or plaintiff at any point of time was managing the affairs of Baba Moga Ji Trust despite the fact that it was registered. The compromise Ex.P12 in my view would not help the appellant-plaintiff as it only pertained to donation box of Baba Moga Ji Trust, and therefore, it would not tantamount the vesting of the rights of the samadh upon the Committee.

All these factors have been taken into consideration by the trial Court and the lower Appellate Court being the last Court of fact and law and the arguments above mentioned are not able to cut on ice in order to enable me to render a different finding at the one arrived at. No substantial question of law arises for determination.

The appeal is hereby dismissed.

January 15, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No