

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

**RSA No.4378 of 2016 (O&M)
Date of Decision.14.12.2018**

Gurdwara Siri Guru Singh Sabha, MehndipurAppellant

Vs

Jasdev Singh and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. N.S. Rapri, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.11442-C of 2016

For the reasons stated in the application, delay of 7 days
in filing of the appeal is condoned.

Application is allowed.

Main Case

The appellant-defendant has not been successful in
defending the injunction suit preferred by respondent-plaintiff qua
forcible interference and dispossession in respect of land measuring 1
kanals 8 marlas comprising in Khata Nos.649/823, 434/519, 60/79,
Khasra Nos.42//1/5/2 (0-14), 1/4/2 (0-3), 42//1/1/1 (0-11) as well as
demolition of the construction and counter-claim claiming ownership
of the suit property by challenging the judgment and decree dated
30.09.1982 rendered in Civil Suit No.194/80 titled as “Bhajan Singh
etc. Vs. Sant Bakhtawar Singh etc.”.

The respondent-plaintiff claimed to be in possession of
the aforementioned suit property by alleging that in the suit

aforementioned, present plaintiff and his brother Baldev Singh were defendants No.2 and 3 whereas Sant Bakhtawar Singh was defendant No.1 and Gurdwara Mehandipur Sahib was defendant No.8 and defendant No.3 was plaintiff No.3. The subject matter of the suit land was 3 kanals 15 marlas, which was decided on the basis of compromise dated 30.09.1982 and as an outcome of that, mutation was also entered in respect of the property marked 'L M N Z V X Y S', which is part of khasra No.42//1/1 in the name of defendant No.8. Various other details were also given as fall out of the aforementioned decree. It was alleged that defendants extended threat and therefore, the suit aforementioned was filed.

Defendants No.1, 2 and 4 filed written statement by raising the objection qua maintainability as per the provisions of Section 36 of the Sikh Gurdwara Act, 1925 and as well as Section 92 of the Code of Civil Procedure.

In the counter-claim, it was alleged that Sant Bakhtawar Singh had no right to enter into compromise, therefore, the decree was not binding.

The trial Court on preponderance of evidence found the plaintiff in possession, granted injunction and dismissed the counter-claim as during all this period, no effort was made by the defendants to challenge the decree. The appeal laid before the lower Appellate Court was also dismissed.

Learned counsel appearing on behalf of the appellant-defendant submitted that the suit was not maintainable as per the provisions of Section 36 of the Sikh Gurdwara Act. Sant Bakhtawar

Singh did not have any authority to enter into the compromise. On the other hand, plaintiff failed to prove possession and therefore, injunction granted is totally erroneous and perverse. The Court ought to have entertained the counter claim and framed the issues. The plaintiff miserably failed to prove as to how and under what circumstances Sant Bakhtawar Singh alleged Mohatmin suffered compromise.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Rapri. Ex.P1, P3, P4, P7 to P11 are the aks shijra, jamabandies of various periods from 1982-83 to 2005-2006, which established possession of the respondent-plaintiff along with Baldev Singh and Jasdev Singh. In the column of ownership, names of Chanan Singh, Gurmeet Singh and Major Singh have been recorded but no relief was claimed against these persons as there was no threat. It is settled law that long and settled possession in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Rame Gowda (D) by LRs Vs. M. Varadappa Naidu (D) by LRs (2004) 1 SCC 769** cannot be disturbed except in due course of law.

The appellant-counter claimant failed to establish as to how and under what circumstances, judgment and decree dated 30.09.1982, Ex.P20 was illegal, null and void as documents Ex.D6 to D8 brought on record also did not come to aid. No explanation has come forward for not challenging the same, as the suit for injunction was filed only in the year 2007.

All these factors have been examined by the Courts

below threadbare to arrive at concurrent finding of fact and law, which cannot be faulted with, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

**(AMIT RAWAL)
JUDGE**

December 14, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No