

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

RSA No.661 of 2016 (O&M)

Date of decision : 28.08.2018

Baba Mahadev Gir Chela Itwargir Chela Samundergir

...Appellant

Versus

Nasibgir @ Nasib Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sumit Gupta, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.1800-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 53 days in refiling the present appeal is condoned.

Application is allowed.

CM No.1801-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 15 days in filing the present appeal is condoned.

Application is allowed.

CM No.1802-C of 2016

The plaintiff-appellant has also filed an application under Order 41 Rule 27 CPC to allow the appellant to lead additional evidence i.e. one

enquiry conducted by Inspector General of Police, Chief Minister Flying Squad, Haryana.

In the considered opinion of this Court, such enquiry is not conclusive and would not determine the civil rights of the parties. Hence, leaving the parties to prosecute the criminal proceedings which are admittedly pending. However, for the purpose of decision of the present Regular Second Appeal, the alleged enquiry by the police is of no consequence.

Accordingly, this application is dismissed.

Main Case

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below, dismissing his suit for declaration claiming that he is Mahant of a religious property i.e. Samadh Baba Bhagwangir. The plaintiff also claims a relief of permanent injunction restraining the defendants from interfering into the affairs of the aforesaid religious property.

The claim made by the plaintiff was contested by the defendants and it was denied that during the lifetime of Anoopgir, the plaintiff was not acting as Mahant or performing any such duties.

Both the Courts after appreciating the evidence, have concurrently found that the plaintiff has failed to produce any evidence to prove that he is exclusive Mahant of the religious institution. The plaintiff has only appeared himself in the witness-box and as per Ex.D1 which is an agreement, the plaintiff has admitted that Rajbir and Rattangir are also Mahants of the religious property. Still further, the plaintiff has not

produced on record any Bhaik ceremony through which the plaintiff was appointed as a Mahant. Although, the plaintiff had claimed that the Will was executed by Itwargir but the aforesaid Will has not been produced.

In view thereof, there is no ground to interfere.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

28.08.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**