

RSA-1248-2017 (O&M)

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

RSA-1248-2017 (O&M)

Date of decision : 04.12.2018

Sukhdev Singh

... Appellant

Versus

Shiromani Gurudwara Prabandhak Committee, Amritsar
and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Diwan S. Adlakha, Advocate
for the appellant.

AMIT RAWAL, J.

CM-3008 -C-2017

For the reasons stated in the application, the delay of 66 days in
refiling the appeal is condoned.

CM stands disposed of.

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The appellant-plaintiff has not been successful in seeking
declaration qua ownership in respect of land measuring 4 kanals 4 marlas to
the extent of half share.

It was alleged that as per jamabandi for the year 1984-85, the
suit was owned and possessed by Baso and thereafter, as per jamabandi for
the year 1917-18, Savvaiya and Harnam were the owners of the property.
The land revenue of the suit land was exempted by the Government and
entry to this effect was recorded in the revenue record. In the year

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1962-63, when consolidation had taken place, it came to the knowledge that the defendants had been using the land without any authority or ownership. Defendant No.3 started using the income for his personal use and personal gain.

Defendant Nos.1 and 2 filed separate statement and opposed the suit and alleged that one Chhajju son of Harnama gifted the suit property through oral gift in favour of Bhola, which was recorded in the revenue record and owing to the fact that there was a gurudwara, which had been taken by Shiromani Gurdwara Parbandhak Committee, Amritsar. The plaintiff made sincere efforts to prove the pleaded case by bringing on record the revenue record (Ex.P1 to P-18), but failed to succeed before the trial Court. The appeal taken before the lower Appellate Court was also dismissed.

Learned counsel appearing on behalf of the appellant submitted that the factum of the property being ancestral had not been denied by the defendants. Chhajju could not have gifted the property in the manner and mode as it was without consideration. It is not being used for religious purposes, but for personal use and person gain, thus, in such circumstances, a cause of action arose to file the suit, therefore, there is illegally and perversity.

I am afraid the aforementioned argument is not sustainable, for, the possession was being shown in favour of the defendants since long and they are using the property for religious purposes. No evidence has been led to establish that the purpose, for which, the land was actually given, was deviated. In the absence of discharge of onus, the Courts below had no occasion, but to dismiss the suit.

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As an upshot of my finding, I do not subscribe to the submissions of Mr. Adlakha to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

04.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**