

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

RSA No.534 of 2017 (O&M)

Date of decision: 24.09.2018

Krishan Gopal and others

..... Appellants

Versus

Vijay Pal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rakesh Dhiman, Advocate for the appellants.

None for the respondent-caveator.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the judgment passed by the learned First Appellate Court.

In State of Haryana, there is a peculiar custom through which some property is given as a limited grant in lieu of doing work/service to a temple, mosque or shrine. Such rent free grant is known as Dholi. In the present case, it is not in dispute that the respondents are co-owners of the property and there was entry in favour of Ambe Parshad, predecessor-in-interest of defendants as Dholidar for performing religious duties as would be clear from the Jamabandi in the year 1960-61. It is further not in dispute that Ambe Parshad leased out the property which was given to him as Dholi to some one else. The suit was contested by the defendants-appellants claiming that lease was not a permanent alienation and the lease has expired. It was further claimed that against the lessee, a suit was filed in which decree has been passed and the possession has been taken. Learned First Appellate Court found that since successor-in-interest of the dholidars who are now

residing in the State of Uttar Pradesh has stopped rendering the services to the religious place a temple.

Learned counsel for the appellants submitted that this dholi rights were given for performing the religious duties in Garg Ganga i.e. in State of Uttar Pradesh and not in the village. A look at the entry does not prove that the dholi was granted for performing the religious duties in the State of Uttar Pradesh. Had it been a case as contended by learned counsel, there would have been entry to that effect in the revenue record.

Learned counsel for the appellants in the alternative contended that it was a gift and therefore, such gift is not revokable. It will be noted that even this argument of learned counsel does not get support from the revenue record. Had it been a gift, it would have been recorded as in the revenue record. In the revenue record what has been recorded is only a limited rent free grant given in lieu of work/service being rendered by predecessor-in-interest of the defendants Ambe Parshad for maintaining a religious place.

Learned counsel for the appellants further submitted that the plaintiff failed to produce sharat-wazib-urz and onus was wrongly put on the defendants. This Court has considered the submission. Once Jamabandi entries have been produced on record to prove that it was only in the nature of rent free grant and not a gift, therefore, the plaintiffs had discharged their onus.

In view thereof, there is no ground to interfere in the order passed by the learned First Appellate Court.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

24.09.2018
Dinesh Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No