

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

**RSA No.5944 of 2017 (O&M)
Date of Decision.19.11.2018**

Jai Ram Tanwar and another

.....Appellants

Vs

Udai Bhan

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rakesh Kumar Sharma, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.15600-C of 2017

For the reasons stated in application, delay of 186 days in
re-filing of the appeal is condoned.

Application is allowed.

RSA No.5944 of 2017

The appellants-plaintiffs have not been successful before
the Courts below in seeking injunction against the defendant.

The suit aforementioned was based on the premise that
there was a charitable trust known as “Harijan Dalit Varg Kalyan
Samiti, Hodal” which was registered under the Societies Registration
Act. The suit property was purchased vide sale deed dated
21.06.1972 from one Roop Lal, Ami Chand and Raghbiro to the
extent of ½ share each for sale consideration of ₹9000/-. Dharmshala
under the name and style of Ambedkar Bhawan for the use of Dalit
community was constructed but the defendant in order to
misappropriate and grab the property, threatened to alienate the same

and as such, injunction was sought.

Defendant objected to the ownership of the suit property, much less, sale deed. It was alleged that the sole motive of the plaintiff was to blackmail the Samiti, having 58 members, headed by the defendant and all the decision of the Samiti were being taken through resolution. The factum of disgruntlement of the plaintiff was resolution dated 06.12.2009 whereby a full size statue of late Ch. Gaya Lal was installed in the premises of Ambedkar Bhawan.

Mr. Sharma, learned counsel appearing on behalf of the appellants-plaintiffs submitted that judgments and decrees of both the Courts below are not sustainable, as provisions of Section 92 CPC heavily relied upon by the Courts were not applicable. Courts below failed to consider that merely signing of suit by one of the plaintiffs cannot be estoppel against other plaintiffs. Civil Court is the guardian of public property and therefore, for all the more reasons was required to protect the interest of public property. Ramesh Kumar, Secretary in cross-examination admitted that only condolence meet regarding death of late Gaya Ram was held and nothing else.

I am afraid aforementioned argument of Mr. Sharma is not sustainable, for, the finding of fact and law arrived at by the Courts below is based upon the preponderance of the evidence. Concededly the society is a registered society as it cannot work without any resolution. Plaintiff No.1 was signatory to the resolution dated 12.07.2009 regarding erection of life size statute of late Gaya Ram but failed to lead any evidence that the same was converted for personal use as the defendant was fair enough to make a statement

that they shall not alienate the suit property or raze any construction.

As an upshot of my finding, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, 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

November 19, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No