

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

**RSA No.697 of 2017 (O&M)
Date of Decision:- 02.08.2018**

Dharamshala Dera Baba Sharan Dass Mohalla Budhwaran Ferozepur City
.....Appellant

V/S

Smt. Uma Devi
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. L.S. Sidhu, Advocate for the appellant.

HARINDER SINGH SIDHU J.

This Regular Second Appeal has been filed against the judgment and decree of the Courts below whereby the suit filed by the plaintiff has been dismissed.

The plaintiff claiming himself to be a Mahant of Dharamshala Dera Baba Sharan Dass Mohalla Budhwaran Ferozepur City filed a suit for a decree of possession by way of redemption of a portion of House No.92, consisting of three rooms having a Chaubara as depicted in the site plan. It was claimed that earlier Mahant Kishan Dass was the manager of Dharamshala. He had mortgaged the suit property on 14.03.1980 in favour of the defendant and received an amount of Rs.15,000/- as mortgage money from the defendant. The possession of the suit property was delivered to the defendant. Now Mahant Kishan Dass has died and the plaintiff Shiv Ram Dass is the present Mahant and is managing the suit property. The property had been mortgaged for a period of twenty years i.e. Upto 14.03.2000, which period having expired, the defendant was in illegal and unauthorized possession of the suit property. Hence, the suit.

The case of the defendant was that Shiv Ram Dass was not Mahant of the Dharamshala and thus, he had no locus standi to file the suit. It was also claimed that previously also the plaintiff had filed a suit against the defendant claiming

himself to be a Chela of Mahant Kishan Dass and having been duly appointed as Mahant on 29.09.1985 by way of resolution. That suit was dismissed holding that Shiv Ram Dass was not Mahant of the Dera and as such was not competent to institute the suit. It was further the case of the defendant that there was no question of appointing Shiv Ram Dass as Mahant in 1985 as Mahant Kishan Dass had acted as Mahant till his murder in the year 1993. In fact Shiv Ram Dass was the accused of murder of Mahant Shiv Ram Dass and he was convicted by the Sessions Court vide its judgment dated 27.11.1997. Learned counsel for the appellant does not dispute this fact and that conviction had been upheld even by the Hon'ble Supreme Court.

Learned trial Court held that the issue as to whether Shiv Ram Dass was competent to institute the suit being Mahant of Dharamshala, had been concluded against him vide judgment dated 21.04.2008 passed by learned Additional District Judge Ferozepur. The said judgment had attained finality.

The findings of the learned trial Court have been affirmed by the learned Appellate Lower Court.

Learned counsel for the appellant has not been able to demonstrate how the aforesaid findings are perverse and contrary to the record. The plaintiff has not been able to establish his character as Mahant of the Dharamshala. There is no merit in the present appeal and the same is dismissed.

(HARINDER SINGH SIDHU)
JUDGE

02.08.2018

Atul

Whether speaking/reasoned Yes/No

Whether reportable Yes/No