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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3579 of 2019 (O&M)
Date of Decision: 26.09.2019

Bir Bajrangi Akhara .....Appellant

Vs

Suresh Nayyar and others ....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Tribhawan Singla, Advocate
for the appellant.

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RAJ MOHAN SINGH, J.

[1]. Plaintiff is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction against the defendants restraining them from encroaching upon and interfering into the peaceful possession of the plaintiff and day to day practice being performed by the wrestlers in the property i.e. Akhara Bir Bajrangi in Shamshan Ghat complex, near Khaddar Bhandar, Nakodar as shown in the site plan. Plaintiff claimed that Wrestling Akhara is a registered Akhara under the name and style of Bir Bajrangi Akhara since the year 2009 and the Akhara is giving social service to the people. Defendants are

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forcible and influential persons and they intend to create hurdle in the way of youth, who are practising in Akhara. Defendants want to grab the property of the Akhara. Defendants have demolished the boundary wall towards northern side to some extent.

[3]. Defendants contested the suit on the ground that the plaintiff has no *locus standi* to file the suit. Ownership of the property vests with the inhabitants of the locality as the site is a *Shamshan Ghat* which is in existence prior to the partition. In the revenue record, the site is shown in the ownership of Municipal Committee. Mutation has been sanctioned in favour of Municipal Committee. *Khasra* No.394(11-9) is the *Shamshan Bhoomi.* Plaintiff in order to take unauthorized possession of the *Shamshan Bhoomi* has got the *Akhara* registered for some ulterior purpose and has also obtained some electric connection without taking into confidence of the executive of Shamshan Bhoomi Sudhar Sabha. Defendants are private persons having no personal interest in the property, nor they have threatened the plaintiff in any manner. In fact the defendants with the help of entire city after collecting lot of money have made improvements for the welfare of the city and they have already constructed one *Deori* which is approximately 6000 sq. feet, wherein development work is in progress and the same is

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adjoining to the main gate. In the remaining portion of the *Shamshan Bhoomi*, the management intends to uplift level of the earth and to grow plants, trees and grass for beautification, apart from one Shiva statue in the shape of temple. Running of Akhara is an illegal exercise by the plaintiff on the site of Shamshan Bhoomi.

[4]. After completion of the pleadings, both the parties went to trial on definite issues.

[5]. Both the Courts below have found that the suit property is a public property. Khasra No.394(11-9) is a cremation ground in the revenue record as well as in the record of Municipal Committee. Existence of any Akhara in Khasra No.394(11-9) has not come forth in any revenue document. The land in question is a cremation ground and has been proved even with the photographs i.e. Ex.P-9 to Ex.P-21.

[6]. It is a settled principle of law that possession of public property by any individual or group of individuals is no possession in the eyes of law and such group of persons cannot claim any right over such public property. PW-1 Ravi Kumar has admitted in his cross-examination that in the replication filed by plaintiff they have admitted that property bearing Khasra No.394 is under the Municipal Committee, Nakodar and is being used

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as a *Shamshan Ghat* in the revenue record. No amendment was made in the plaint even thereafter. PW-1 further admitted that the defendants have no possession over any part of Khasra No.394 in their individual capacity. They have got done some improvements in the *Shamshan Ghat*. Defendants have no personal interest in the suit property. No land was ever donated to the plaintiff-Akhara out of Khasra No.394.

[7]. Running of Akhara in the land of Shamshan Ghat without any concurrence given by Shamshan Bhoomi Sudhar Sabha is an illegal exercise and the same cannot be perpetuated under the orders of the Court. Plaintiff has no *locus standi* to file any suit for permanent injunction. Plaintiff has not been inducted by the Shamshan Bhoomi Sudhar Sabha or by the Municipal Committee, Nakodar over the site in question. The plaintiff cannot seek any injunction against the public land. Very entry of the plaintiff in the suit property is by way of illegal means. Plaintiff would be treated to be a rank trespasser for which no protection can be granted in favour of the plaintiff.

[8]. Both the Courts below have recorded firm finding of facts thereby declining the claim of the plaintiff. The findings recorded by the Courts below cannot be held to be the result of any misreading of evidence or suffered with any perversity. No question of law worth cognizance is involved in the present

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appeal. The appeal is found to be totally devoid of merits and is accordingly dismissed in *limine*.

[9]. All pending application, if any, are accordingly disposed of.

September 26, 2019 **(RAJ MOHAN SINGH)**
Atik **JUDGE**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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