

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

RSA No.1416 of 2016 (O&M)

Date of decision:13.02.2019

Thakurdwara Lord Radha Krishan and another

... Appellants

Vs.

Ranjit Singh and others

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pawan Kumar Suri, Advocate for
Mr. R.S.Chauhan, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs sought the declaration that plaintiffs as Mohitmim were owners in possession of the land measuring 31 kanals 11 marlas with consequential relief of permanent injunction on the premise that premises in question consisted of holy temple for the last about 100 years in village Mirzapur known as Thakurdwara Mirzapur which had been under the management of Bawa Rameshwar Dass as Mohitmim. On demise of aforementioned Bawa, his son Pandit Joginder Pal inherited his father as Mohitmim of the Thakurdwara. The aforementioned piece of land was owned by the plaintiffs and income derived from the said land was used for holding of various religious functions, celebrations and discourses. Defendant no.1 with the evil intentions wanted to grab Thakurdwara and hatched a conspiracy with certain other persons including defendants no.2 to 9 by filing a civil suit no.279 of 1995 against Bawa Rameshwar Dass in

the Civil Court at Pathankot. On demise of Rameshwar Dass, Pandit Joginder Pal had filed an application for being impleaded as the legal heir of the defendant in the said suit but later on, the suit was dismissed as withdrawn. Owing to threat perception, the suit was filed.

The defendants opposed the suit and denied Joginder Pal to be the son of Bawa Rameshwar Dass and stated that he was the son of Nanak Chand. Plaintiff no.2 was not resident of village Mirzapur as he was residing in Mukerian. Bawa Rameshwar Dass did not appoint any Chela and handed over the Thakurdwara to the Committee on 13.6.1995 which has been maintained and headed by Ranjit Singh.

Learned counsel appearing on behalf of the appellants submitted that plaintiffs brought on record Ex.P1 to Ex.P10, various resolutions, khasra girdawaris, order of the dismissal of previous suit, jamabandis, whereas, defendants brought on record statement recorded in previous suit and other documents as Ex.D1 to Ex.14. All the aforementioned documents established the plaintiff to be son of Bawa Rameshwar Dass and possession.

I am afraid the aforementioned arguments are not sustainable, for, Joginder Pal in cross examination admitted that he was doing the repair work at Mukerian under the name and style of Sharma Electrical Works and had visited Thakurdwara about 20 days back and did not deny the presence of Ranjit Singh who was managing Thakurdwara. Issuance of Ration Card at Mukerian for the last more than 03 years was also not denied. On some occasions, he appeared for cross-examination but later on, did not turn up

for the remaining cross-examination. In such circumstances, defendants had been deprived the right of cross-examination. In my view, the plaintiffs have miserably failed to discharge the onus.

As an upshot of my findings, arguments of Mr. Pawan Kumar Suri, are not able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 13, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No