

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

RSA-245-1996 (O&M)

Date of decision : 07.02.2020

Dharamvir Singh and another

...Appellants

Versus

Murti Mandir Mahadevji Maharaj Sathapit Mandir Mahadevji Maharaj

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Ajay Jain, Advocate for the appellants.

Mr. N.D. Achint, Advocate for the respondents.

ANIL KSHETARPAL, J.

Defendant Nos.1 and 2 have filed the present Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit filed by Murti Mandir Mahadevji Maharaj Sathapit Mandir Mahadevji Maharaj (a religious institution) challenging the correctness of a registered lease deed for a period of 99 years executed by defendant No.3 as the Mohatmim/Manager of a religious institution on the ground that defendant No.3 had no power to lease out the property owned by the religious institution which amounts to permanent alienation.

Both the Courts have held that although defendant No.3 is Mohatmim to the extent of half share, however, he had no power to execute the lease deed for a period of 99 years which amounts to permanent alienation.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellants has submitted that once defendant No.3 has been held to be the Mohatmim/Manager of the religious institution to the extent of half share, the lease deed executed by him could not be set aside.

On the other hand, learned counsel for the respondents has submitted that defendant No.3 has not proved on file any custom or power vested with the Manager/Mohatmim to lease out the property for a period of 99 years.

On consideration of the matter, this Court is of the considered view that there is no substance in the present appeal.

In absence of any specific power, custom or practice, a Manager of the religious institution cannot be permitted to give the property of a religious institution on lease for a period of 99 years. Lease for a period of 99 years is a permanent alienation of the property and, therefore, such act on the part of the Manager in absence of any custom, practice or specific authorization, shall not be valid.

Learned counsel for the appellants failed to draw attention of the Court to the aforesaid power. Hence, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, shall stand dismissed, in view of the abovesaid judgment.

It may be noted that application for bringing on record legal heirs of Sultan through whom the present suit was instituted, has been filed and is pending before the Court which was hotly contested by the defendants. It may be significant to note here that the suit was instituted by the religious institution. Still further, the plaintiff-respondent is represented by a counsel. Therefore, this Court is of the considered view that the application for bringing on record legal heirs is not required to be decided.

Appeal dismissed.

07.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No